

**SIXTY-FIRST DAY**  
(Monday, May 1, 1995)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Mr. Floyd L. Vick, Chaplain, Travis County Juvenile Court Detention Services, offered the invocation as follows:

Almighty God, creator and sustainer of life, You called Moses to serve via a "burning bush." Jeremiah was selected before he was "formed in the womb," Isaiah was cleansed with a "burning ember" touching his lips, and Amos was called from "herding sheep and pruning trees."

By whatever means used, You have placed each one here with the awesome task of serving the people of Texas. May the same grace, mercy, power, and presence given to these in the past be with each one of us here as we carry out our calling. In His name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 28, 1995, was dispensed with and the Journal was approved.

**CO-AUTHOR OF SENATE BILL 311**

On motion of Senator Harris and by unanimous consent, Senator Nelson will be shown as Co-author of **S.B. 311**.

**CO-AUTHORS OF SENATE BILL 1346**

On motion of Senator West and by unanimous consent, Senators Barrientos and Cain will be shown as Co-authors of **S.B. 1346**.

**CO-AUTHOR OF SENATE BILL 1654**

On motion of Senator Montford and by unanimous consent, Senator Brown will be shown as Co-author of **S.B. 1654**.

**CO-AUTHORS OF SENATE BILL 1675**

On motion of Senator Zaffirini and by unanimous consent, Senators Moncrief and Truan will be shown as Co-authors of **S.B. 1675**.

**CO-AUTHORS OF SENATE BILL 1692**

On motion of Senator Lucio and by unanimous consent, Senators Truan and Zaffirini will be shown as Co-authors of **S.B. 1692**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 36**

On motion of Senator Montford and by unanimous consent, Senator Brown will be shown as Co-author of **S.J.R. 36**.

**CO-SPONSOR OF HOUSE BILL 1086**

On motion of Senator Brown and by unanimous consent, Senator Rosson will be shown as Co-sponsor of **H.B. 1086**.

**CO-SPONSOR OF HOUSE BILL 1343**

On motion of Senator Montford and by unanimous consent, Senator Whitmire will be shown as Co-sponsor of **H.B. 1343**.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 1, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 279**, Relating to the identification of inmates of the Texas Department of Criminal Justice and other convicted persons as illegal criminal aliens. (As amended)

**S.B. 323**, Relating to the licensing of certain physicians who are certified by a medical specialty board.

**S.B. 401**, Relating to the payment of and procedures to enforce payment of taxes and fees collected by the comptroller. (As substituted)

**S.B. 403**, Relating to the occupation tax imposed on attorneys. (As amended)

**S.B. 561**, Relating to the election of the members of the board of directors of the Jack County Hospital District.

**S.B. 753**, Relating to the creation of municipal courts of record in Irving. (As substituted)

**S.B. 773**, Relating to abandoned personal property at private institutions of higher education.

**S.B. 776**, Relating to an emergency appropriation from the waste tire recycling fund to the Texas Natural Resource Conservation Commission for the fiscal year ending August 31, 1995. (As substituted and amended)

**S.B. 792**, Relating to certain contracts of the Trinity River Authority.

**S.B. 855**, Relating to providing a deferred retirement option to members of firemen's relief and retirement funds in certain cities.

**S.B. 897**, Relating to a review of Texas' programs to research, control, and eradicate animal tuberculosis and to implementing an improved program based on the review. (As amended)

**S.B. 1028**, Relating to regulating the sale of livestock at auction.

**S.C.R. 16**, Requesting the Supreme Court of Texas to promulgate rules for the State Bar of Texas to institute in its continuing education curriculum a program on sexual abuse issues. (As amended)

**S.C.R. 109**, Designating April 21-29, 1995, and April 21-27, 1996, as National Science and Technology Week in Texas.

**S.C.R. 129**, Commending Hermann Hospital for its worthy accomplishments.

**H.B. 32**, Relating to the exercise of the powers of eminent domain and the right of entry by the Texas High-Speed Rail Authority.

**H.B. 49**, Relating to the authority of a school district to permit certain persons to perform services for the district in lieu of paying ad valorem taxes owed to the district.

**H.B. 283**, Relating to the powers and duties of certain constables to enforce environmental laws affecting the Rio Grande.

**H.B. 321**, Relating to a speed limit for school buses.

**H.B. 331**, Relating to certain public information regarding commercial property rating.

**H.B. 344**, Relating to the issuance of a commission to certain branch pilots.

**H.B. 399**, Relating to the authorization of an exemption from ad valorem taxation of boats and other equipment used in the commercial taking of fish, shrimp, shellfish, and other marine life.

**H.B. 428**, Relating to the civil liability of charitable organizations providing crime prevention or law enforcement services.

**H.B. 752**, Relating to eligibility for certain law enforcement training programs and examinations.

**H.B. 771**, Relating to certain nursing homes for purposes of professional liability insurance coverage.

**H.B. 788**, Relating to the authority of a municipality to create an industrial development corporation and to levy a sales and use tax to carry out the projects of the corporation.

**H.B. 814**, Relating to the restoration, operation, and maintenance of certain historic cemeteries.

**H.B. 824**, Relating to the creation of a statutory county court in Matagorda County.

**H.B. 865**, Relating to an increase in federal funding for mental health services for children and families.

**H.B. 867**, Relating to an automated system for providing reimbursements to nursing homes under the state Medicaid program.

**H.B. 885**, Relating to the amount of insurance coverage allowed under group life insurance policies.

**H.B. 886**, Relating to curfews and to the arrest, custody, and detention of a child alleged to have violated a curfew; providing penalties.

**H.B. 1059**, Relating to notice in county deed records of the existence of a buffer zone required as a condition of a license or permit issued by the Texas Natural Resource Conservation Commission.

**H.B. 1124**, Relating to the investigation of certain railroad crossing violations reported by a railway employee.

**H.B. 1193**, Relating to the regulation of orthotists and prosthetists; providing a civil penalty.

**H.B. 1233**, Relating to withholding for federal income tax purposes from unemployment compensation benefits.

**H.B. 1271**, Relating to the Texas Peace Officers' Memorial Advisory Committee.

**H.B. 1329**, Relating to cancellation of certain alcoholic beverage licenses for failure to pay local fees.

**H.B. 1432**, Relating to the staffing of certain emergency medical services vehicles.

**H.B. 1472**, Relating to certain insurance coverage available through the Texas Automobile Insurance Plan Association.

**H.B. 1542**, Relating to placement and replacement of evidence of registration of certain vehicles.

**H.B. 1544**, Relating to the designation of a portion of United States Highway 290 as the Pearl Harbor Memorial Highway.

**H.B. 1559**, Relating to payment of member contributions to retirement systems for police officers in certain municipalities.

**H.B. 1586**, Relating to certain agreements under a retail installment contract for the purchase of a motor vehicle.

**H.B. 1642**, Relating to the county court at law in Hopkins County.

**H.B. 1651**, Relating to the expansion of the Higgins Hospital District of Lipscomb County to include the territory included in the Lipscomb Hospital District of Lipscomb County and to the name of the expanded district.

**H.B. 1670**, Relating to the assignment of certain insurance agents' commissions.

**H.B. 1680**, Relating to rights and duties of a holder of an alcoholic beverage permit or license.

**H.B. 1770**, Relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department.

**H.B. 1882**, Relating to installment payments of ad valorem taxes imposed on the residence homestead of a disabled person.

**H.B. 2875**, Relating to the continued eligibility for assistance of certain areas formerly classified as economically distressed areas.

**H.B. 1979**, Relating to the procedures for selling state property under the management and control of the Texas Board of Criminal Justice.

**H.B. 1989**, Relating to the underground storage of appropriated water incidental to a beneficial use.

**H.B. 2069**, Relating to the disannexation of certain land by a municipality.

**H.B. 2078**, Relating to the sale or lease of property by municipalities, counties, or other political subdivisions.

**H.B. 2159**, Relating to the enforcement of a protective order by a constable.

**H.B. 2349**, Relating to the regulation of sanitary landfills.

**H.B. 2376**, Relating to the transfer of certain property from the Texas Department of Public Safety to the City of San Angelo.

**H.B. 2387**, Relating to the regulation of retail water or sewer service utilities.

**H.B. 2446**, Relating to the authority of a municipal utility district to assess a charge for providing peace officers in the district.

**H.B. 2574**, Relating to the responsibilities of the Matagorda County Attorney and creating the office of district attorney for the 329th Judicial District in Wharton County.

**H.B. 2579**, Relating to the abolition of the interagency coordination council.

**H.B. 2610**, Relating to the collection of delinquent ad valorem taxes and the appraisal of property for ad valorem tax purposes.

**H.B. 2625**, Relating to actions for the collection of ad valorem taxes and transfers of property in the course of collecting ad valorem taxes.

**H.B. 2673**, Relating to the imposition and collection of additional court costs in certain counties.

**H.B. 2687**, Relating to service on the boards of trustees of retirement systems for police officers in certain municipalities.

**H.B. 2696**, Relating to the ability of a municipality to participate in a federal program for which local matching funds are required.

**H.B. 2726**, Relating to tax-exempt private activity bonds.

**H.B. 2731**, Relating to oil and gas production research and information, including the Texas Experimental Research and Recovery Activity; providing administrative, civil, and criminal penalties.

**H.B. 2732**, Relating to the timely filing of alcoholic beverage permits, the activities authorized for the holder of an agent's permit, the storage of certain alcoholic beverage records, and shipment of alcoholic beverages into the state.

**H.B. 2790**, Relating to the exemption of insurance benefits and certain annuity proceeds from seizure under process.

**H.B. 2842**, Relating to eligibility for disability pensions from retirement systems for police officers in certain municipalities.

**H.B. 2866**, Relating to claims against a decedent's estate.

**H.B. 2943**, Relating to public retirement systems for employees of certain municipalities.

**H.B. 3031**, Relating to authorized locations for the sale of lottery tickets.

**H.B. 3061**, Relating to the authority of the Swisher Memorial Hospital District to issue anticipation notes and certificates of obligation.

**H.B. 3062**, Relating to the windows and windshields of certain law enforcement vehicles.

**H.B. 3075**, Relating to definition, sale, and purchase of certain fish.

**H.B. 3109**, Relating to state agency reports to the bond review board on bond transactions.

**H.B. 3171**, Relating to the exemption of certain chemical dependency programs from licensure requirements.

**H.B. 3183**, Relating to the dates on which an election to approve the adoption of a municipal sales tax may be held.

**H.C.R. 164**, In memory of Corporal Harlon Block, U.S.M.C.

The House has concurred in Senate amendments to **H.B. 840** by a non-record vote.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 114**. The House conferees are: Representatives Willis, Chair; Rangel, Raymond, Ogden, and Naishtat.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 68**. The House conferees are: Representatives Hochberg, Chair; Bailey, Farrar, Place, and Puente.

The House has adopted the Conference Committee Report on **S.B. 128** by a non-record vote.

Respectfully,

Cynthia Gerhardt, Chief Clerk  
House of Representatives

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

H.J.R. 35 to Committee on Finance.  
H.J.R. 73 to Committee on Finance.  
H.J.R. 90 to Committee on Jurisprudence.  
H.B. 238 to Committee on Health and Human Services.  
H.B. 333 to Committee on Jurisprudence.  
H.B. 523 to Committee on International Relations, Trade, and Technology.  
H.B. 525 to Committee on Criminal Justice.

**H.B. 1001** to Committee on International Relations, Trade, and Technology.  
**H.B. 1048** to Committee on Health and Human Services.  
**H.B. 1266** to Committee on State Affairs.  
**H.B. 1396** to Committee on Criminal Justice.  
**H.B. 1567** to Committee on Criminal Justice.  
**H.B. 1745** to Committee on Health and Human Services.  
**H.B. 2027** to Committee on Health and Human Services.  
**H.B. 2098** to Committee on Jurisprudence.  
**H.B. 2162** to Committee on Criminal Justice.  
**H.B. 2245** to Committee on Natural Resources.  
**H.B. 2467** to Committee on Finance.  
**H.B. 2473** to Committee on Natural Resources.  
**H.B. 2495** to Committee on Education.  
**H.B. 2505** to Committee on Natural Resources.  
**H.B. 2609** to Committee on Finance.

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
May 1, 1995

TO THE SENATE OF THE SEVENTY-FOURTH LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION for a term to expire August 31, 1999, to  
be effective May 2, 1995:

R. B. "RALPH" MARQUEZ  
1426 20th Avenue North  
Texas City, Texas 77590

Mr. Marquez will be filling the unexpired term of Peggy Garner of Austin, who resigned.

TO BE MEMBERS OF THE TEXAS REAL ESTATE COMMISSION for  
terms to expire January 31, 2001:

JAY BRUMMETT  
11701 Broad Oaks Drive  
Austin, Texas 78759

Mr. Brummett will be replacing Marsha Spencer of Houston, whose term expired.

CHRISTINE T. FOLMER  
4961 Vista Del Monte  
El Paso, Texas 79922

Mrs. Folmer will be replacing Henry Santamaria of El Paso, whose term expired.



DEANNA MAYFIELD  
3117 Palo Duro Drive  
San Angelo, Texas 76904

Mrs. Mayfield will be replacing Thelma Elizalde of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS COMMISSION ON FIRE PROTECTION for a term to expire February 1, 1997:

CHIEF JUAN J. ADAME  
7413 Blue Lake  
Corpus Christi, Texas 78413

Chief Adame will be filling the unexpired term of Andrew F. Mehl of El Paso, who resigned.

TO BE MEMBERS OF THE TEXAS COMMISSION ON FIRE PROTECTION for terms to expire February 1, 1999:

CAPTAIN MARVIN G. DAWSON  
1006 East Reppto  
Brownfield, Texas 79316

Captain Dawson will be replacing Larry Eugene McKee of Austin, whose term expired.

CHIEF RONNIE E. JAMES  
1600 Ridgemont  
Wichita Falls, Texas 76309

Chief James is being reappointed.

GILBERT ROBINSON  
2408 Second Avenue South  
Texas City, Texas 77590

Mr. Robinson will be replacing Roy Lee Chapman of Abilene, whose term expired.

CAPTAIN RICARDO SALDANA  
1004 Holleyfield  
Mission, Texas 78572

Captain Saldana will be replacing Alonzo Lopez, Jr., of Kingsville, whose term expired.

TO BE MEMBERS OF THE TEXAS COMMISSION ON FIRE PROTECTION for terms to expire February 1, 2001:

DAVID ABERNATHY  
P.O. Box 992  
Pittsburg, Texas 75686

Mr. Abernathy will be replacing Jan Stalder of Dallas, who resigned.

JON M. HUTCHENS  
16230 Singapore Lane  
Houston, Texas 77040

Mr. Hutchens will be replacing Armando G. Caceres of Corpus Christi, whose term expired.

KELLEY MARTIN STALDER  
7273 Moss Ridge  
Parker, Texas 75002

Mr. Stalder will be replacing Eugene Steven Perdue of Mineral Wells, whose term expired.

CARL DEWAYNE WREN  
3507 Cattleman Drive  
Manchaca, Texas 78652

Mr. Wren will be replacing David J. Burkhart of Dallas, whose term expired.

Respectfully submitted,

/s/George W. Bush  
Governor of Texas

#### SENATE BILL 606 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 606 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Amendment

Amend S.B. 606 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the detection and prevention of osteoporosis.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 90 to read as follows:

#### CHAPTER 90. OSTEOPOROSIS

Sec. 90.001. FINDINGS. The legislature finds that:

(1) osteoporosis, a bone-thinning disease, is a major public health problem that, in many cases, remains undiagnosed, resulting in fractures, pain, disability, and immobility;

(2) early detection and prevention are critical health care strategies for those at risk of osteoporosis; and

(3) it is in the public interest of this state to promote public awareness of the benefits and value of the early detection, prevention, and appropriate treatment of osteoporosis.

Sec. 90.002. OSTEOPOROSIS PROGRAM. In consultation with the board, the commissioner shall develop and implement a program that educates the public on the causes of osteoporosis and the personal risk factors associated with the development of osteoporosis, publicizes the value of early detection and prevention, and identifies the most cost-effective options available for treatment.

Sec. 90.003. TASK FORCE. (a) In developing the program created by Section 90.002, the commissioner may appoint a task force to make recommendations on strategies for educating the public on the health benefits of early detection and prevention of osteoporosis.

(b) Members of the task force are not entitled to compensation, a per diem, or expense reimbursement for their service on the task force.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**Floor Amendment No. 1**

Amend C.S.S.B. 606 as follows:

(1) On page 1, delete lines 16-21 and substitute new Sec. 90.002 as follows:

"Sec. 90.002. OSTEOPOROSIS PROGRAM. Using existing resources, the Texas Department of Health shall educate the public on the causes of osteoporosis and the personal risk factors associated with the development of osteoporosis, publicize the value of early detection and prevention, and identify the most cost-effective options available for treatment."

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to S.B. 606.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 971 WITH HOUSE AMENDMENT**

Senator Cain called S.B. 971 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment No. 1**

Amend S.B. 971, engrossed version, as follows:

(1) In SECTION 1 of the bill, in the table of contents to the Transportation Code (page 6, line 14), after "LICENSE", insert "FOR FAILURE TO PASS TEST FOR INTOXICATION".

(2) In SECTION 1 of the bill, in Section 68.091, Transportation Code (page 188, line 14), strike "that may be composed only of" and substitute "whose membership shall include and be limited to".

(3) In SECTION 1 of the bill, in the table of contents to Chapter 201, Transportation Code (page 200, line 4), after "ENGINEER", insert "; DETERMINATION OF FITNESS".

(4) In SECTION 1 of the bill, in the table of contents to Chapter 201, Transportation Code (page 200, lines 23-25), strike the heading to Section 201.405 and redesignate Section 201.406 as Section 201.405.

(5) In SECTION 1 of the bill, in the table of contents to Chapter 201, Transportation Code (page 202, lines 11-15), strike the heading to Section 201.903 and redesignate Sections 201.904 and 201.905 as Sections 201.903 and 201.904, respectively.

(6) In SECTION 1 of the bill, in Section 201.002(c), Transportation Code (page 203, line 18), between "for" and "public", insert "the furtherance of".

(7) In SECTION 1 of the bill, in the heading to Section 201.111, Transportation Code (page 214, line 5), between "ENGINEER" and the period, insert "; DETERMINATION OF FITNESS".

(8) In SECTION 1 of the bill, in Section 201.111, Transportation Code (page 214, line 5), between the period and "On", insert "(a)".

(9) In SECTION 1 of the bill, in Section 201.111, Transportation Code (page 214, line 10), after "maintenance" and before "(V.A.C.S.)", insert the following:

(b) The commission shall adopt rules necessary to determine the qualifications of engineers who apply for highway construction work.

(10) In SECTION 1 of the bill, strike Section 201.405, Transportation Code (page 220, lines 12-16), and renumber Section 201.406 as Section 201.405.

(11) In SECTION 1 of the bill, in Section 201.703(a), Transportation Code (page 229, line 12), strike "agriculture" and substitute "transportation".

(12) In SECTION 1 of the bill, strike Section 201.903, Transportation Code (page 235, line 19, through page 236, line 4), and renumber Sections 201.904 and 201.905 as Sections 201.903 and 201.904.

(13) In SECTION 1 of the bill, in Section 201.904(b), Transportation Code (page 236, line 8), after "marking", insert "and signing".

(14) In SECTION 1 of the bill, in the table of contents to Chapter 203, Transportation Code (page 251, line 3), strike "EFFECTS" and substitute "IMPACTS".

(15) In SECTION 1 of the bill, in the table of contents to Chapter 203, Transportation Code (page 251, line 20, through page 252, line 9), strike the heading to Section 203.055 and renumber Sections 203.056-203.066 appropriately.

(16) In SECTION 1 of the bill, strike Section 203.002, Transportation Code (page 253, lines 10-20), and substitute the following:

Sec. 203.002. MODERN STATE HIGHWAY SYSTEM. To promote public safety, facilitate the movement of traffic, preserve the public's financial investment in highways, promote the national defense, and accomplish the purposes of this chapter, the commission may:

(1) lay out, construct, maintain, and operate a modern state highway system, with emphasis on the construction of controlled access highways;

(2) plan for future highways; and

(3) convert where necessary an existing street, road, or highway into a controlled access highway in accordance with modern standards of speed and safety. (V.A.C.S. Arts. 1085a, Sec. 1 (part); 6674w-1, Sec. 1 (part).)

(17) In SECTION 1 of the bill, in Section 203.003(a), Transportation Code (page 253, line 22), strike "locate" and substitute "lay out".

(18) In SECTION 1 of the bill, in Section 203.003(a), Transportation Code (page 253, line 26), between "municipality" and the period, insert ", including a home-rule municipality".

(19) In SECTION 1 of the bill, in the heading to Section 203.004, Transportation Code (page 254, line 11), strike "EFFECTS" and substitute "IMPACTS".

(20) In SECTION 1 of the bill, in Section 203.004(a), Transportation Code (page 254, line 15), strike "effect" and substitute "impact".

(21) In SECTION 1 of the bill, in Section 203.021(a), Transportation Code (page 254, line 22), between "municipality" and the comma, insert ", including a home-rule municipality".

(22) In SECTION 1 of the bill, in Section 203.022(b), Transportation Code (page 255, line 16), strike "give" and substitute "by rule provide".

(23) In SECTION 1 of the bill, in Section 203.031(a)(5), Transportation Code (page 256, line 14), strike "usefulness" and substitute "utility".

(24) In SECTION 1 of the bill, in Section 203.032, Transportation Code (page 256, line 23), strike "other political".

(25) In SECTION 1 of the bill, in Section 203.032, Transportation Code (page 256, line 24), between "municipality" and the period, insert ", including a home-rule municipality".

(26) In SECTION 1 of the bill, in Section 203.034(a), Transportation Code (page 257, line 11), between "a" and "controlled", insert "new".

(27) In SECTION 1 of the bill, in Section 203.034(a), Transportation Code (page 257), strike lines 12 and 13 and substitute "highway location is not entitled to access to the new highway location as a matter of right."

(28) In SECTION 1 of the bill, in Section 203.034(b), Transportation Code (page 257, line 14), between "a" and "controlled", insert "new".

(29) In SECTION 1 of the bill, in Section 203.034(b), Transportation Code (page 257, line 14), after "highway", add "location".

(30) In SECTION 1 of the bill, in Section 203.034(b)(1), Transportation Code (page 257, line 17), between "the" and "controlled", insert "new".

(31) In SECTION 1 of the bill, in Section 203.034(b)(1), Transportation Code (page 257, line 17), between "highway" and "and", insert "location".

(32) In SECTION 1 of the bill, in Section 203.034(b)(1), Transportation Code (page 257), strike line 18 and substitute "used in the new highway location, the commission specifically".

(33) In SECTION 1 of the bill, in Section 203.034(b)(1), Transportation Code (page 257), strike line 20 and substitute "new highway location; and".

(34) In SECTION 1 of the bill, in Section 203.034(b)(2), Transportation Code (page 257, line 22), between "the" and "highway", insert "new".

(35) In SECTION 1 of the bill, in Section 203.051(a)(2)(B), Transportation Code (page 258, line 7), between "prohibits" and "the", insert "for not more than seven years".

(36) In SECTION 1 of the bill, in Section 203.051, Transportation Code (page 258, line 17), between "(c)" and "Subsection", insert the following:

"The department may condemn the fee or a lesser interest in the property.

"(d) The department shall, in a statement or petition in condemnation, exclude from the interest to be condemned all the oil, gas, and sulphur that can be removed from beneath the real property. This exclusion shall be made without providing the owner of the oil, gas, or sulphur any right of ingress or egress to or from the surface of the land to explore, develop, drill, or mine the real property.

"(e)".

(37) In SECTION 1 of the bill, in Section 203.051, Transportation Code (page 258, lines 20 and 21), strike "(5) (part).)" and substitute "(5).)".

(38) In SECTION 1 of the bill, in Sections 203.052(b)(6) and (b)(7), Transportation Code (page 259, lines 14 and 15), strike "locate" and substitute "lay out" each time it occurs.

(39) In SECTION 1 of the bill, in Section 203.053(a), Transportation Code (page 260, lines 1 and 2), strike "to which the property right refers" and substitute "right".

(40) In SECTION 1 of the bill, in Section 203.053(b), Transportation Code (page 260, line 8), between "municipality" and the comma, insert ", including a home-rule municipality".

(41) In SECTION 1 of the bill, strike Section 203.055, Transportation Code (page 260, line 19, through page 261, line 1), and renumber Sections 203.056-203.066 as Sections 203.055-203.065.

(42) In SECTION 1 of the bill, in Section 203.058(a), Transportation Code (page 261, line 26), strike "203.057" and substitute "203.056".

(43) In SECTION 1 of the bill, in Section 203.058(b), Transportation Code (page 262, line 1), strike "203.059" and substitute "203.056".

(44) In SECTION 1 of the bill, in Section 203.058(b), Transportation Code (page 262, line 4), strike "203.057" and substitute "203.056".

(45) In SECTION 1 of the bill, in Section 203.060(d), Transportation Code (page 263, line 16), between "department's" and "appraised", insert "approved".

(46) In SECTION 1 of the bill, in Section 203.064, Transportation Code (page 264, line 23), strike "203.061, 203.062, and 203.063" and substitute "203.060, 203.061, and 203.062".

(47) In SECTION 1 of the bill, in Sections 203.065(a) and 203.066(a), Transportation Code (page 265, lines 2 and 11), strike "locate" and substitute "lay out" each time it occurs.

(48) In SECTION 1 of the bill, in Section 203.066(b), Transportation Code (page 265, line 15), strike "203.065(b)" and substitute "203.064(b)".

(49) In SECTION 1 of the bill, in Section 203.111(c), Transportation Code (page 267, line 26), strike "203.065" and substitute "203.064".

(50) In SECTION 1 of the bill, in Section 221.002, Transportation Code (page 268, line 22), between "municipality" and "may", insert ", including a home-rule municipality,".

(51) In SECTION 1 of the bill, in Section 222.031, Transportation Code (page 271), strike lines 3-8 and substitute "Money appropriated by the United States for public road construction in this state may be spent by and under the supervision of the department. (V.A.C.S. Art. 6672 (part).)".

(52) In SECTION 1 of the bill, in Section 223.009, Transportation Code (page 277, line 7), strike "improvement made" and substitute "work done".

(53) In SECTION 1 of the bill, in Section 223.043, Transportation Code (page 280, line 1), strike "A" and substitute "In a contract for the construction, maintenance, or improvement of a designated state highway, the department may require that a".

(54) In SECTION 1 of the bill, in Section 223.043, Transportation Code (page 280, line 3), strike "a designated state" and substitute "the".

(55) In SECTION 1 of the bill, in Section 225.022(c), Transportation Code (page 297, lines 14 and 15), strike "at appropriate intermediate sites along the highway" and substitute "at intermediate sites along the highway that the department determines are appropriate".

(56) In SECTION 1 of the bill, in Section 225.023(c), Transportation Code (page 297, lines 24 and 25), strike "at appropriate intermediate sites along the highway" and substitute "at intermediate sites along the highway that the department determines are appropriate".

(57) In SECTION 1 of the bill, in Section 225.026(c), Transportation Code (page 299, line 2), strike "at appropriate intermediate sites along the highway" and substitute "at intermediate sites along the highway that the department determines are appropriate".

(58) In SECTION 1 of the bill, in Section 225.027(c), Transportation Code (page 299, line 17), strike "at appropriate intermediate sites along the highway" and substitute "at intermediate sites along the highway that the department determines are appropriate".

(59) In SECTION 1 of the bill, in Section 251.103(1), Transportation Code (page 321, line 21), between "road" and the semicolon, insert "as described by Section 256.008".

(60) In SECTION 1 of the bill, in Section 314.011(a), Transportation Code (page 521, line 26), strike "locate" and substitute "lay out".

(61) In SECTION 1 of the bill, in Section 397.002(1), Transportation Code (page 725, line 6), between "parts" and "for", insert ", components, and accessories".

(62) In SECTION 1 of the bill, in Section 397.007, Transportation Code (page 726, line 25), between "part" and "or", insert ", accessory,".

(63) In SECTION 1 of the bill, in Section 452.455, Transportation Code (page 960, line 27), after "INDICATORS.", insert "(a) This section applies to an authority required under Section 452.454 to contract for a performance audit.".

(64) In SECTION 1 of the bill, in Section 452.455, Transportation Code (page 960, line 27, through page 962, line 24), reletter Subsections (a)-(j) as Subsections (b)-(k).

(65) In SECTION 1 of the bill, in Section 456.001(2), Transportation Code (page 1045, lines 18 and 19), strike "Urban Mass Transportation" and substitute "Federal Transit".

(66) In SECTION 1 of the bill, in Section 456.001(4), Transportation Code (page 1045, line 26), strike "1601" and substitute "5301".

(67) In SECTION 1 of the bill, in Section 456.005, Transportation Code (page 1048, lines 11 and 12), strike "Urban Mass Transportation" and substitute "Federal Transit".

(68) In SECTION 1 of the bill, in Section 456.024(b), Transportation Code (page 1051, line 19), strike "1607a" and substitute "5307".

(69) In SECTION 1 of the bill, in Section 456.024(d)(3), Transportation Code (page 1052, line 20), strike "1614" and substitute "5311".

(70) In SECTION 1 of the bill, in Section 456.024(d)(3), Transportation Code (page 1052, line 22), strike "1607a" and substitute "5307".

(71) In SECTION 1 of the bill, in Section 501.155(a), Transportation Code (page 1105, line 22), strike "Except as provided by Subsection (b), a" and substitute "A".

(72) In SECTION 1 of the bill, in Section 502.154(b)(2)(A), Transportation Code (page 1139, line 5), strike "and".

(73) In SECTION 1 of the bill, in Section 502.154(b)(2), Transportation Code (page 1139), between lines 5 and 6, insert a new Paragraph (B) to read as follows and reletter existing Paragraph (B) as (C):

"(B) the number of registrations denied because of the failure to provide proof of residency; and".

(74) In SECTION 1 of the bill, in Section 502.154, Transportation Code (page 1139, line 22), strike "(part)".

(75) In SECTION 1 of the bill, in Section 502.275(e)(1)(B), Transportation Code (page 1196, lines 21 and 22), strike "vehicle identification" and substitute "motor".

(76) In SECTION 1 of the bill, in the table of contents to Chapter 521, Transportation Code (page 1259, line 2), between the comma and "OR", insert "CANCELLATION,".

(77) In SECTION 1 of the bill, in the table of contents to Chapter 521, Transportation Code (page 1263, line 7), strike "REVOCATION" and substitute "CANCELLATION".

(78) In SECTION 1 of the bill, in the table of contents to Chapter 521, Transportation Code (page 1263, line 9), strike "REVOCATION" and substitute "CANCELLATION".

(79) In SECTION 1 of the bill, in the table of contents to Chapter 521, Transportation Code (page 1263, line 22), strike "REVOCATION" and substitute "CANCELLATION".

(80) In SECTION 1 of the bill, in Section 521.028(a), Transportation Code (page 1272, line 22), between "suspended" and "or", insert ", canceled,".

(81) In SECTION 1 of the bill, in the heading to Section 521.041, Transportation Code (page 1274, line 23), between the comma and "OR", insert "CANCELLATION,".



(82) In SECTION 1 of the bill, in Section 521.041(b)(3), Transportation Code (page 1275, line 4), between "suspended" and "or", insert ", canceled,".

(83) In SECTION 1 of the bill, in Section 521.043(1), Transportation Code (page 1276, line 15), between "license" and "suspension", insert "cancellation,".

(84) In SECTION 1 of the bill, in Section 521.101(e), Transportation Code (page 1286, line 2), strike "revoke" and substitute "cancel".

(85) In SECTION 1 of the bill, in Section 521.201(4), Transportation Code (page 1296, line 9), between "revoked" and "or", insert ", canceled,".

(86) In SECTION 1 of the bill, in Section 521.225(c), Transportation Code (page 1303, line 3), between "suspension," and "or", insert "cancellation,".

(87) In SECTION 1 of the bill, in Section 521.294(b)(1), Transportation Code (page 1315, line 22), between "suspended" and "or", insert ", canceled, disqualified,".

(88) In SECTION 1 of the bill, in the heading to Section 521.296, Transportation Code (page 1319, line 3), strike "REVOCATION" and substitute "CANCELLATION".

(89) In SECTION 1 of the bill, in Section 521.296(a), Transportation Code (page 1319, line 6), strike "revoke" and substitute "cancel".

(90) In SECTION 1 of the bill, in Section 521.296(b), Transportation Code (page 1319, line 9), strike "revoke" and substitute "cancel".

(91) In SECTION 1 of the bill, in Section 521.296(b), Transportation Code (page 1319, line 9), strike "revocation" and substitute "cancellation".

(92) In SECTION 1 of the bill, in the heading to Section 521.297, Transportation Code (page 1319, line 14), strike "REVOCATION" and substitute "CANCELLATION".

(93) In SECTION 1 of the bill, in Section 521.297, Transportation Code (page 1319, line 17), strike "revoke" and substitute "cancel".

(94) In SECTION 1 of the bill, in Section 521.301, Transportation Code (page 1322, line 11), between "suspension" and "or", insert ", cancellation,".

(95) In SECTION 1 of the bill, in Section 521.302(a), Transportation Code (page 1322, line 20), between "been" and "revoked", insert "canceled or".

(96) In SECTION 1 of the bill, in Section 521.302(a), Transportation Code (page 1322, line 21), between "suspension" and "or", insert ", cancellation,".

(97) In SECTION 1 of the bill, in Section 521.302(d), Transportation Code (page 1323, line 8), between "the" and "denial", insert "cancellation,".

(98) In SECTION 1 of the bill, in Section 521.302(f), Transportation Code (page 1323, line 13), between "of" and "suspension", insert "cancellation,".

(99) In SECTION 1 of the bill, in the heading to Section 521.307, Transportation Code (page 1325, line 13), strike "REVOCATION" and substitute "CANCELLATION".

(100) In SECTION 1 of the bill, in Section 521.307, Transportation Code (page 1325, line 14), strike "revoke" and substitute "cancel".

(101) In SECTION 1 of the bill, in Section 521.343(c), Transportation Code (page 1330, line 7), between "is" and "suspended", insert "canceled, disqualified,".

(102) In SECTION 1 of the bill, in Section 521.374(b), Transportation Code (page 1337, line 21), between "suspension" and "under", insert "or prohibition".

(103) In SECTION 1 of the bill, in Section 521.451(1), Transportation Code (page 1342, line 27), between "been" and "revoked", insert "canceled,".

(104) In SECTION 1 of the bill, in Section 521.451(4), Transportation Code (page 1343, line 8), strike "suspended" and substitute "canceled, suspended,".

(105) In SECTION 1 of the bill, in Section 521.452(b), Transportation Code (page 1343, line 27), strike "suspended" and substitute "canceled, suspended,".

(106) In SECTION 1 of the bill, in Section 521.454(c), Transportation Code (page 1345, line 26), between "the" and "suspension", insert "cancellation,".

(107) In SECTION 1 of the bill, in Section 521.457(a)(1), Transportation Code (page 1347, line 18), strike "revoked" and substitute "canceled".

(108) In SECTION 1 of the bill, in Section 521.457(d), Transportation Code (page 1348, line 17), between "a" and "suspension", insert "cancellation,".

(109) In SECTION 1 of the bill, in the table of contents to Chapter 522, Transportation Code (page 1353, between lines 23 and 24), insert

"Sec. 522.092. SUSPENSION, REVOCATION, CANCELLATION, OR DENIAL OF DRIVER'S LICENSE UNDER OTHER LAWS".

(110) In SECTION 1 of the bill, in Subchapter H, Chapter 522, Transportation Code (page 1383, between lines 7 and 8), add Section 522.092 to read as follows:

Sec. 522.092. SUSPENSION, REVOCATION, CANCELLATION, OR DENIAL OF DRIVER'S LICENSE UNDER OTHER LAWS. A person subject to disqualification under this chapter may also have the person's driver's license suspended, revoked, canceled, or denied under one or more of the following, if the conduct that is a ground for disqualification is also a ground for the suspension, revocation, cancellation, or denial of a driver's license suspension under:

- (1) Chapter 521;
- (2) Chapter 524;
- (3) Chapter 601; or
- (4) Chapter 724. (V.A.C.S. Art. 6687b-2, Sec. 25(l).)

(111) In SECTION 1 of the bill, in the table of contents to Chapter 524, Transportation Code (page 1393, line 8), strike "REFUSAL TO TAKE OR".

(112) In SECTION 1 of the bill, in the chapter heading to Chapter 524, Transportation Code (page 1394, line 21), strike "REFUSAL TO TAKE OR".

(113) In SECTION 1 of the bill, in Section 524.014, Transportation Code (page 1399, lines 12 and 13), strike Subdivision (5) and substitute the following:

(5) the period in which the person must request a hearing.

(114) In SECTION 1 of the bill, in Section 524.021(a)(2), Transportation Code (page 1400, line 9), strike "considered" and substitute "presumed".

(115) In SECTION 1 of the bill, in Section 524.031, Transportation Code (page 1401, line 21), strike "considered" and substitute "presumed".

(116) In SECTION 1 of the bill, in Section 524.051(b)(2), Transportation Code (page 1409, line 14), strike "is".

(117) In SECTION 1 of the bill, in Section 622.052(a)(1), Transportation Code (page 1761, line 15), between "sunset" and the semicolon, insert "as defined by law".

(118) In SECTION 1 of the bill, in Section 622.063, Transportation Code (page 1762, line 21), between "the" and "width", insert "length".

(119) In SECTION 1 of the bill, in Section 623.078(a)(3), Transportation Code (page 1788, line 13), between "(3)" and "traffic", insert "moving".

(120) In SECTION 1 of the bill, in Section 623.092(b), Transportation Code (page 1792, line 3), strike "license for the movement of a manufactured house in addition to that required by state law" and substitute "license, in addition to that required by state law, for the movement of a manufactured house".

(121) In SECTION 1 of the bill, in Section 623.102(b), Transportation Code (page 1796, line 27, through page 1797, line 1), strike "equipped during transportation over a roadway with a wiring harness" and substitute "equipped with a wiring harness during transportation over a roadway".

(122) In SECTION 1 of the bill, in Section 623.121(a), Transportation Code (page 1798), strike lines 5-8 and substitute "that in combination with the towing vehicle are in excess of the length or width limitations provided by law but less than 80 feet in length".

(123) In SECTION 1 of the bill, in Section 623.145(12), Transportation Code (page 1803, lines 4-5), strike "compensation to highway users for inconvenience and loss of time" and substitute "compensation for inconvenience and necessary delays to highway users".

(124) In SECTION 1 of the bill, in Section 623.195(b)(12), Transportation Code (page 1809, lines 25-26), strike "compensation to highway users for inconvenience and loss of time" and substitute "compensation for inconvenience and necessary delays to highway users".

(125) In SECTION 1 of the bill, in the table of contents to Chapter 724, Transportation Code (page 1937, line 25), strike "MANDATORY".

(126) In SECTION 1 of the bill, in Section 724.011(a), Transportation Code (page 1940, line 26), strike "considered" and substitute "deemed".

(127) In SECTION 1 of the bill, in Section 724.012, Transportation Code (page 1941, line 8), strike "MANDATORY".

(128) In SECTION 1 of the bill, in Section 724.012(a), Transportation Code (page 1941, line 8), strike "A specimen" and substitute "one or more specimens".

(129) In SECTION 1 of the bill, in Section 724.012(a), Transportation Code (page 1941, lines 9 and 10), strike "only" each time it occurs.

(130) In SECTION 1 of the bill, in Section 724.034(5), Transportation Code (page 1948, line 15), strike "date by" and substitute "period in".

(131) In SECTION 1 of the bill, in Section 724.048(c), Transportation Code (page 1953, lines 13-16), strike "Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, or".

(132) In SECTION 1 of the bill, renumber the expansion clauses appropriately.

The amendment was read.

Senator Cain moved to concur in the House amendment to **S.B. 971**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 450 WITH HOUSE AMENDMENTS**

Senator Rosson called **S.B. 450** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Committee Amendment No. 1**

Amend **S.B. 450**, on page 7, lines 16-19, by substituting the following:  
"SECTION 7. NONSURRENDER OF CHAPTER 13, WATER CODE, JURISDICTION. Nothing in this Act limits or affects, in any manner, the jurisdiction of the Texas Natural Resource Conservation Commission or any successor agency under Chapter 13, Water Code."

#### **Committee Amendment No. 2**

Amend **S.B. 450**, on page 4, line 4, by adding the words "Subject to paragraph (c) of Section 4," before the words "Regional planning includes the following considerations:", and by changing the "R" in the word "Regional" to a lower case "r".

#### **Committee Amendment No. 3**

Amend **S.B. 450**, on page 3, line 5, by adding the words "It is not a purpose of this Act to regulate water and wastewater for Hudspeth County or Culberson County." after the words "in the management of regional water resources".

The amendments were read.

Senator Rosson moved to concur in the House amendments to **S.B. 450**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 178 WITH HOUSE AMENDMENTS**

Senator Whitmire called **S.B. 178** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

Amend **S.B. 178** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the vehicle emissions inspection and maintenance program.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** The purpose of this Act is to create the least stringent vehicle emissions inspection and maintenance program possible that will attain 100 percent compliance with the federal Clean Air Act (42 U.S.C. Section 7401 et seq.).

**SECTION 2.** Sections 382.037(d) and (h), Health and Safety Code, are amended to read as follows:

(d) On adoption of a resolution by the commission [board] and after proper notice, the Texas Department of Transportation shall implement a system that requires, as a condition of registering a motor vehicle under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), in a county that is included in a vehicle emissions inspection and maintenance program under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), that the vehicle, unless the vehicle is not covered by the system or is being registered in conjunction with the vehicle's first sale as that term is defined by Section 7, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), be ~~[annually or biennially]~~ inspected annually, biennially, or at some other appropriate interval under the vehicle emissions inspection and maintenance program as required by the Texas air quality state implementation plan. The Texas Department of Transportation shall implement such a system when it is required by any provision of federal or state law, including any provision of the Texas air quality state implementation plan. The commission [board] may require or accept verification of compliance other than a vehicle inspection certificate. The commission shall accept, instead of a vehicle inspection certificate or an alternative verification of compliance, proof of payment of a mitigation fee as provided by Section 382.0371. The alternative verification of compliance or proof of payment of a mitigation fee shall be in a form determined through joint rule making by the commission [board] and the Texas Department of Transportation.

(h) If the Texas Department of Transportation adopts a system under Subsection (d), the department by rule shall[~~]~~:

~~[(1)] require, for a vehicle that is to be registered in a county covered by a biennial emissions testing program, that in an even-numbered year the owner of a vehicle of an even-numbered model year, and in an odd-numbered year the owner of a vehicle of an odd-numbered model year, submit to the department a valid vehicle emissions inspection certificate, other verification of compliance, or proof of payment of a mitigation fee issued for that vehicle within 90 days preceding the date on which the person applies for the registration;~~ and

~~[(2) require the owner of a vehicle that is to be registered in an area covered by an annual emissions testing program to submit to the department a valid emissions inspection certificate issued for that vehicle within 90 days preceding the date on which the person applies for the registration].~~

SECTION 3. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0371-382.0374 to read as follows:

Sec. 382.0371. HYBRID VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM. (a) For purposes of obtaining a vehicle emissions inspection certificate required as a condition of registration in an affected county, a vehicle that is less than six years old may be inspected at a decentralized test-and-repair facility that is authorized and licensed by the commission to conduct vehicle emissions inspections and that uses an approved technology.

(b) For purposes of obtaining a vehicle emissions inspection certificate required as a condition of registration in an affected county, a vehicle that is six years old or older must be initially inspected at a centralized inspection facility that is authorized and licensed by the commission to conduct vehicle emissions inspections and that uses an approved technology. If repair is necessary before a vehicle can qualify for a vehicle emissions inspection certificate, the subsequent reinspection may be conducted at a decentralized test-and-repair facility that is authorized and licensed by the commission to conduct vehicle emissions inspections and that uses an approved technology. A vehicle that fails the initial vehicle emissions inspection for two consecutive inspection cycles must be reinspected at a centralized testing facility after repairs.

(c) The commission may not grant a waiver of any sort for a vehicle that fails a vehicle emissions inspection or for which a mitigation fee has not been paid as provided by Subsection (d).

(d) A person may obtain an exemption from vehicle emissions inspection requirements for a vehicle less than six years old by submitting a \$10 mitigation fee to the county tax assessor-collector with the application for registration of the vehicle each year of the biennial inspection cycle preceding the inspection cycle for which the exemption is sought. The owner of a rental vehicle less than six years old that is to be registered in the county for part of a year only may obtain an exemption for that vehicle under this subsection by paying a fee prorated for the part of the year for which the vehicle is registered in the county. The county tax assessor-collector shall issue to a person paying the

mitigation fee proof of payment in a form prescribed by the commission. The county tax assessor-collector shall keep a separate record of, and shall deposit in a separate account in the county treasury, the mitigation fees collected under this section. Except as provided by Section 382.0374, the county tax assessor-collector each calendar quarter shall remit to the comptroller mitigation fees collected for the preceding quarter. The comptroller shall deposit the mitigation fees to the credit of the clean air fund to be used for the purposes of that fund. If the commission, the Public Safety Commission, and the Texas Department of Transportation by joint rule develop the program authorized by Subsection (i), a centralized inspection or decentralized test-and-repair facility that renews vehicle registrations shall collect, account for, and remit to the comptroller the mitigation fees in the same manner as a county tax assessor-collector, or shall remit the fees to the county clerk for deposit to the appropriate fund if the county in which the facility is located has implemented a vehicle repair assistance and scrappage program authorized by Section 382.0374.

(e) The commission and the Texas Department of Transportation by joint rule shall require vehicle emissions inspection and certification or payment of a mitigation fee as provided by Subsection (d) as a condition of registering a vehicle if:

(1) the vehicle:

(A) is to be registered outside an affected county; and

(B) will be driven inside the affected county more than three times each week; or

(2) the vehicle:

(A) is a used vehicle;

(B) is to be registered in an affected county; and

(C) was registered outside or was held unregistered outside the affected county during the previous registration year.

(f) The commission by rule may provide for the inspection and repair of vehicles under the vehicle emissions inspection and maintenance program by certified inspection or repair technicians at testing or test-and-repair facilities licensed by the commission.

(g) The commission may purchase or lease and use remote sensing devices in an affected county to identify grossly emitting vehicles in locations where those vehicles are likely to travel if the purchase or lease and use of remote sensing devices will be cost-effective in obtaining emissions reduction credits for the state.

(h) The commission by rule shall set a uniform fee for initial vehicle emissions inspection and maintenance testing in all nonattainment areas. A centralized inspection facility or a decentralized test-and-repair facility may not charge a fee for reinspecting a vehicle that has failed the initial inspection and has been repaired to bring the vehicle into compliance but may charge a fee to reinspect a vehicle that has failed both the initial inspection and the first post-repair reinspection.

(i) The commission, the Texas Department of Transportation, and the Public Safety Commission by joint rule shall develop a program to allow

a centralized inspection facility or a decentralized test-and-repair facility to renew vehicle registrations and to perform safety inspections.

(j) The commission in implementing the vehicle emissions inspection and maintenance program may not impose requirements more stringent than federal requirements. The commission:

(1) by rule may exempt a county from the vehicle emissions inspection and maintenance program if:

(A) the action is not prohibited by federal law or regulation; and

(B) the commission determines that the county will maintain full attainment credit and required emissions reductions;

(2) by emergency rule may take any action necessary to conform the state's vehicle emissions inspection and maintenance program established under Section 382.037 and modified by Sections 382.0371-382.0374 or any similar clean air program to the most flexible, effective, efficient, economical, and convenient method or system compatible with and acceptable under federal law or regulations or other federal guidelines or enforcement policies; and

(3) by emergency rule shall adopt a decentralized vehicle emissions inspection and maintenance program if a decentralized program is compatible with and acceptable under federal law or regulations or other federal guidelines or enforcement policies.

(k) In this section:

(1) "Affected county" means a county that is included in a vehicle emissions inspection and maintenance program under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(2) "Approved technology" means a technology certified by the commission as capable of significantly contributing to the achievement of the standards set in the state implementation plan.

(3) "Fleet vehicle" means a motor vehicle operated as one of a group that consists of more than 10 motor vehicles and that is owned and operated by a public or commercial entity or by a private entity other than a single household.

(4) "Vehicle" includes a fleet vehicle.

Sec. 382.0372. HYBRID PROGRAM: TRANSITION PERIOD. (a) From the effective date of this section until January 1, 1998, the vehicle emissions inspection program established under Section 382.037 and modified by Sections 382.0371-382.0374 applies and may be operated and implemented only as provided by this section.

(b) Beginning May 2, 1995, and except as provided by Subsections (d) and (e) or by commission rule adopted under Section 382.0371(j)(1), the program applies to all fleet vehicles in Tarrant, Dallas, Harris, Galveston, Brazoria, Fort Bend, Montgomery, and El Paso counties.

(c) Beginning June 1, 1995, and except as provided by Subsections (d) and (e) or by commission rule adopted under Section 382.0371(j)(1), the program applies to all vehicles in Tarrant, Dallas, Harris, Galveston, Brazoria, Fort Bend, Montgomery, and El Paso counties.



(d) Until January 1, 1996, a decentralized test-and-repair facility in Tarrant or Dallas County may perform vehicle emissions inspections using BAR90 technology.

(e) Until January 1, 1996, a decentralized test-and-repair facility in El Paso County may perform vehicle emissions inspections using BAR84 technology.

(f) Beginning January 1, 1996, the program applies in Jefferson, Orange, Collin, and Denton counties.

Sec. 382.0373. VEHICLE EMISSIONS INSPECTION AND MAINTENANCE ADVISORY PANEL. (a) The vehicle emissions inspection and maintenance advisory panel consists of nine members, one member appointed by the governor, one member appointed by the lieutenant governor, and one member appointed by the speaker of the house of representatives from each of the following groups:

- (1) the automotive repair industry;
- (2) the public; and
- (3) locally affected governments.

(b) A member of the advisory panel serves at the will of the officer who appointed the member.

(c) The governor shall appoint the chairman of the advisory panel.

(d) The advisory panel shall meet quarterly and at the call of the chairman or of a majority of the members.

(e) The advisory panel shall review federal requirements relating to the vehicle emissions inspection and maintenance program, agency rules adopted in this state relating to that program, and the implementation of similar programs by other states and shall inform and advise the commission regarding those requirements, possible alternative compliance methods, and the effects of compliance on the groups represented by the advisory panel.

(f) A member of the advisory panel is entitled to compensation and reimbursement of the member's travel expenses as provided in the General Appropriations Act. Payments under this subsection must be made from existing commission funds.

(g) The advisory panel is not subject to Article 6252-33, Revised Statutes.

Sec. 382.0374. VEHICLE REPAIR ASSISTANCE AND SCRAPPAGE PROGRAM. (a) The commission, the Texas Department of Transportation, and the Public Safety Commission by joint rule shall authorize the implementation of a vehicle repair assistance and scrappage program by the commissioners court of an affected county, subject to appropriate agency oversight that may include reasonable periodic commission audits.

(b) The commission shall adopt guidelines to assist a county in implementing a program under this section. The guidelines at a minimum shall recommend:

- (1) the minimum and maximum amounts for repair assistance or for the scrappage purchase price of a qualified vehicle; and

(2) criteria for determining eligibility for repair assistance, taking into account the vehicle owner's income, the fair market value of the vehicle, and any other relevant considerations.

(c) A participating county shall retain in a separate account the mitigation fees collected under Section 382.0371(d). The county may use money in the account, including accrued interest, only for administering and implementing the county's vehicle repair assistance and scrappage program. If a participating county's program is discontinued by the county or by the state, the county may retain in the account the unexpended and unobligated balance of mitigation fees collected before the program was discontinued for use only in clean air programs. If money in a participating county's account is depleted, the county is not required to provide other county funds to operate the program.

(d) A participating county may contract with any appropriate entity or with another county for services necessary to implement the county's program. A participating county may pool mitigation fees with another participating county for purposes of implementing the program.

(e) A participating county may appoint a local advisory panel consisting of representatives of automobile dealerships, the automotive repair industry, the public, and locally affected governments to advise the county regarding the operation of the county's program.

(f) A fleet vehicle, a vehicle owned or leased by a governmental entity, or a commercial vehicle is not eligible for repair assistance or scrappage purchase under a program implemented under this section.

(g) A private commercial or business entity may participate in a vehicle repair assistance and scrappage program in accordance with commission rules. The commission shall adopt rules under this subsection that provide at a minimum for:

(1) the assignment of emissions reduction credit to a private commercial or business entity that purchases for scrappage a qualified vehicle under a vehicle repair assistance and scrappage program;

(2) the transferability of an assigned emissions reduction credit; and

(3) the use of the emissions reduction credit by the holder of the credit against any emissions requirements of a facility owned or operated by the holder of the credit.

(h) A vehicle purchased under a vehicle repair assistance and scrappage program authorized by this section may not be resold or reused and must be destroyed.

(i) In this section:

(1) "Affected county," "fleet vehicle," and "vehicle" have the meanings assigned by Section 382.0371.

(2) "Commercial vehicle" means a vehicle that is owned or leased by and is used in the regular course of business of a commercial or business entity.

SECTION 4. Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), is amended by adding Subsection (a-2) and amending Subsections (i) and (j) to read as follows:

(a-2) Notwithstanding the provisions of Subsection (a), if the Texas Natural Resource Conservation Commission, the Public Safety Commission, and the Texas Department of Transportation by joint rule under Section 382.0371(i), Health and Safety Code, develop a program to allow a centralized inspection facility or a decentralized test-and-repair facility licensed by the Texas Natural Resource Conservation Commission to renew vehicle registrations and perform safety inspections, the Department may appoint a centralized inspection or a decentralized test-and-repair station licensed by the Texas Natural Resource Conservation Commission to perform the duties of a county tax assessor-collector in registering vehicles in a county that is covered by a vehicle emissions inspection and maintenance program.

(i) In implementing each system that requires a valid vehicle emissions inspection certificate as a condition of registering a vehicle in a county that is included in a vehicle emissions inspection and maintenance program under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), the Texas Department of Transportation through the county tax collector in the county may not issue a registration for a vehicle unless the vehicle emissions inspection certificate for that vehicle issued by an inspection station located in a county that is included in the vehicle emissions inspection and maintenance program within the applicable period required by Section 382.037(h), Health and Safety Code, ~~[or] other verification of compliance, as provided by Section 382.037, Health and Safety Code, or payment or proof of payment of a mitigation fee as provided by Section 382.0371, Health and Safety Code,~~ is submitted with the application for registration or renewal of registration. The county tax collector, a deputy county tax collector, or a person acting on behalf of the county tax collector is not liable to any person for refusing to register a motor vehicle because of the person's failure to submit the vehicle emissions inspection certificate, ~~[waiver, or]~~ other verification of compliance, or payment or proof of payment of a mitigation fee or for registering a motor vehicle under this section.

(j)(1) A county tax collector covered by Subsection (i) of this section shall collect the original emissions inspection certificates~~[-waivers,]~~ and other verifications of compliance and on request of the Texas Natural Resource Conservation Commission shall submit the certificates~~[-waivers,]~~ and the other verifications to the commission. The county tax collector also shall collect the mitigation fees and handle the fees as prescribed by Section 382.0371(d) or 382.0374(c), Health and Safety Code.

(2) Each county tax collector shall submit an annual report to the Texas Natural Resource Conservation Commission and the Texas Department of Transportation that shows:

(A) the number of registrations denied because of the applicant's failure to provide proof of residency in the county;

(B) the number of registrations denied because of the applicant's failure to provide an original emissions inspection certificate, other verification of compliance, or payment or proof of payment of a mitigation fee ~~[or a valid waiver];~~ and

(C) an itemized accounting of the costs to the county of administering this subsection and Subsections (a) and (i) of this section.

SECTION 5. Section 3(j), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) In implementing each system that requires a valid vehicle emissions inspection certificate as a condition of registering a vehicle in a county that is included in a vehicle emissions inspection and maintenance program under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), the State Department of Highways and Public Transportation shall require that the vehicle emissions inspection certificate for that vehicle, ~~or~~ other verification of compliance, as provided by Section 382.037(e), Health and Safety Code, or payment or proof of payment of a mitigation fee as provided by Section 382.0371, Health and Safety Code, be submitted with an application for registration or renewal of registration.

SECTION 6. Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The Texas Natural Resource Conservation Commission may authorize and license inspection stations as necessary to conduct the emissions-related inspection ~~reinspection~~ requirements of the vehicle emissions inspection and maintenance program under Sections 142(d) and (d-1) of this Act. At the request of the Texas Natural Resource Conservation Commission, the Department shall provide inspection certificates for distribution and issuance at centralized or decentralized inspection ~~reinspection~~ stations licensed by the Texas Natural Resource Conservation Commission. The Texas Natural Resource Conservation Commission shall pay to the Department an amount equal to the cost of producing the certificates. The Texas Natural Resource Conservation Commission shall establish a uniform initial inspection fee and a reinspection fee as provided by Section 382.0371(h), Health and Safety Code, and shall implement procedures governing tracking of certificates and refunding the cost of unused certificates issued to inspection ~~reinspection~~ facilities.

(a-2) If the Texas Natural Resource Conservation Commission, the Public Safety Commission, and the Texas Department of Transportation by joint rule under Section 382.0371(j), Health and Safety Code, develop a program to allow a centralized inspection facility or a decentralized test-and-repair facility licensed by the Texas Natural Resource Conservation Commission to renew vehicle registrations and perform safety inspections, the Department may appoint a centralized inspection or a decentralized test-and-repair station licensed by the Texas Natural Resource Conservation Commission to perform vehicle emissions inspections under Subsection (a-1) of this section as an official inspection station to carry out the provisions of this section.

SECTION 7. Section 4.202(a-1), County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a-1) A county tax assessor-collector who is required by Section 2(j), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), to collect a vehicle emissions inspection certificate, other verification of compliance, or a mitigation fee [a valid waiver] from an applicant for registration of a vehicle shall collect and retain for the county a fee of 50 cents for each emissions inspection certificate, ~~[or] other verification, or mitigation fee~~ collected. The county tax assessor-collector may not collect an additional fee for the administrative costs of collecting and handling the mitigation fee.

SECTION 8. Effective May 2, 1995, the following are repealed:

(1) Sections 382.037(o) and (p), Health and Safety Code, as added by S.B. 19, Acts of the 74th Legislature, Regular Session, 1995; and

(2) Section 2, S.B. 19, Acts of the 74th Legislature, Regular Session, 1995.

SECTION 9. (a) On May 2, 1995, the Texas Natural Resource Conservation Commission, the Texas Department of Transportation, and the Public Safety Commission may resume operation and implementation of the vehicle emissions inspection and maintenance program authorized under Section 382.037, Health and Safety Code, but only as modified by Sections 382.0371 through 382.0374, Health and Safety Code, as added by this Act.

(b) Immediately after the effective date of this Act, the Texas Natural Resource Conservation Commission shall adopt emergency rules to implement the vehicle emissions inspection and maintenance program as modified by this Act. The commission shall adopt final rules as soon as practicable after the adoption of emergency rules.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Floor Amendment No. 1

Amend C.S.S.B. 178 (House committee report) by adding a new SECTION to the bill, appropriately numbered, to read as follows and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. All requirements established under Section 382.037 (d), Health and Safety Code, that prevent a vehicle from being registered in accordance with Article 6675a-2, Vernon's Civil Statutes, without evidence of having passed a vehicle emissions test or receiving a waiver or exemption from vehicle emissions testing requirements are suspended. Upon notification by the Texas Natural Resource Conservation Commission to the Texas Department of Transportation of the date that a testing program will be operational for all vehicles or for fleet vehicles in a nonattainment county, any requirements for a vehicle owner to provide proof of emissions testing as a condition of registration will become

effective for all non-fleet vehicles due to register in the month following the resumption of testing, and for fleet vehicles due to register in the month of resumption of testing.

#### **Floor Amendment No. 2**

Amend C.S.S.B. 178 (House committee report), as follows:

(1) In SECTION 3 of the bill, in Section 382.0371, Health and Safety Code (page 4, lines 2 through 4), strike Subsection (c) and substitute the following:

"(c) Except as provided by this subsection, the commission may not grant a waiver for a vehicle that fails a vehicle emissions inspection or for which a mitigation fee has not been paid as provided by Subsection (d). The commission by rule may adopt standards and procedures under which certain categories of vehicles that fail initial emissions inspections, cannot be brought into compliance by repairs, and do not qualify for scrappage may receive a waiver and be registered in an affected county without meeting vehicle emissions inspection requirements of this section. The standards must provide for a waiver rate that does not exceed one percent of the total number of failed vehicles in all affected counties in a calendar year."

(2) In SECTION 8 of the bill (page 17, lines 3 through 7), strike Subdivisions (1) and (2) and substitute the following:

"(1) Sections 382.037(o) and (p), Health and Safety Code, as added by S.B. 19, Acts of the 74th Legislature, Regular Session, 1995;

(2) Section 2, S.B. 19, Acts of the 74th Legislature, Regular Session, 1995; and

(3) Section 382.037(k), Health and Safety Code."

#### **Floor Amendment No. 3**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, Section 382.0371 (d), Health and Safety Code, on page 4, line 10, after the sentence ending in the word "sought", by inserting a new sentence as follows:

"If a vehicle owner presents substantial proof and the county tax assessor-collector determines that a vehicle is registered in an affected county but the vehicle is never operated or very rarely operated in the county in which the vehicle is registered, the county tax assessor-collector shall have the discretion to grant the vehicle owner an exemption from presenting proof of meeting vehicle emissions inspection requirements for that vehicle before the vehicle is registered."

#### **Floor Amendment No. 4**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0371, Health and Safety Code (page 7, between lines 17 and 18), by inserting a new Subsection (k) to read as follows and appropriately relettering the subsequent subsection:

(k) The Texas Department of Transportation shall provide and post adequate signs to direct the public to centralized inspection facilities.

**Floor Amendment No. 5**

Amend C.S.S.B. 178 (House committee report) in Section 1 of the bill, page 1, to read as follows:

"SECTION 1. The purpose of this Act is to create the least stringent vehicle emissions inspection and maintenance program possible that will attain 100 percent compliance with the federal Clean Air Act (42 U.S.C. Section 7401 et seq.) without requiring additional emission reductions from stationary sources to replace the emission reductions from mobile sources that were described in Texas' revised State Implementation Plan, as submitted to the U.S. Environmental Protection Agency prior to January 1, 1995."

**Floor Amendment No. 7**

Amend C.S.S.B. 178 as follows:

(1) On page 1, line 10, between the comma and "are", insert "and Section 382.037(o), Health and Safety Code, as added by S.B. 19, Acts of the 74th Legislature, Regular Session, 1995."

(2) On page 3, between lines 3 and 4, insert the following:

(o) Liberty, Chambers, and Waller counties, regardless of ozone attainment or nonattainment status, may not be included in any vehicle emissions inspection and maintenance program under this section or any other law. [~~Notwithstanding any state agency rule or resolution to the contrary, the vehicle emissions inspection and maintenance program provided for by this section may not begin operation until the 91st day after the effective date of this subsection, except as provided by Subsection (p). This subsection also applies to implementation of the program by the Texas Department of Transportation under this section or under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes); or Section 3, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes); or by the Public Safety Commission under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).~~]

(3) On page 17, line 3, strike "Sections 382.037(o) and (p)" and substitute "Section 382.037(p)".

**Floor Amendment No. 9**

Amend C.S.S.B. 178 as follows:

On page 3, line 11, insert "either" after the word "at".

On page 3, line 12, after the word "facility" insert "or a centralized inspection facility".

**Floor Amendment No. 10**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0371, Health and Safety Code (page 7, between lines 17 and 18), by adding a new Subsection (k) to read as follows and appropriately relettering the subsequent subsection:

"(k) The commissioners court of an affected county by order may require that centralized and decentralized inspection facilities in that county provide to the county tax assessor-collector, by facsimile transmission, online electronic transmission, or other electronic transmission, information regarding vehicle emissions inspection results. A county tax assessor-collector in a county that adopts the requirement described by this subsection shall make that information, and information regarding payment of mitigation fees, available to the commission in the same manner."

**Floor Amendment No. 11**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0371, Health and Safety Code (page 7, between lines 17 and 18), by adding a new Subsection (k) to read as follows and appropriately relettering the subsequent subsection:

"(k) The requirements of the vehicle emissions inspection and maintenance program authorized under Section 382.037 and modified by this section and Sections 382.0372-382.0374 apply only to a 1968 model year or newer gasoline-powered motor vehicle, excluding motorcycles."

**Floor Amendment No. 12**

Amend C.S.S.B. 178 as follows:

(1) On page 7, line 25, insert the following language between the word "plan" and the period: "including the alternate helium test approved by the Environmental Protection Agency for the fuel evaporative system".

**Floor Amendment No. 13**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0371, Health and Safety Code (page 7, between lines 17 and 18), by inserting Subsections (k) and (l) to read as follows and appropriately relettering the subsequent subsection:

"(k) Except as provided by Subsection (l), the commission by rule may provide for an appropriate alternate system of testing a vehicle with a gross carrying capacity heavier than 10,000 pounds."

"(l) A fleet vehicle with a gross carrying capacity heavier than 10,000 pounds may be tested at an on-site fleet maintenance facility by technicians employed by the fleet owner or operator if the facility is authorized and licensed by the commission to perform vehicle emissions inspections required by this section. The commission may set and collect a fee for each fleet vehicle tested at a fleet maintenance facility in an amount not to exceed the cost of testing the vehicle. Fees collected under this subsection may be used only for enforcement of the vehicle emissions inspection program."

**Floor Amendment No. 14**

Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Sections 382.0371 and 382.0372, Health and Safety Code, as follows:

(1) On page 7, between lines 17 and 18, add a new Subsection (k) to read as follows:



"(k) Notwithstanding any other provision of law, the commission shall require decentralized emissions testing in any county that was using BAR 84 technology before January 1, 1994."

(2) On page 7, line 18, strike "(k)" and substitute "(l)".

(3) On page 8, line 10, strike "Subsections (d) and (e)" and substitute "Subsection (d)".

(4) On page 8, strike lines 12 and 13 and substitute "Tarrant, Dallas, Harris, Brazoria, Fort Bend, and Montgomery counties.".

(5) On page 8, line 15, strike "Subsections (d) and (e)" and substitute "Subsection (d)".

(6) On page 8, strike lines 17 and 18 and substitute "Dallas, Harris, Galveston, Brazoria, Fort Bend, and Montgomery counties.".

(6) On page 8, strike lines 22-24.

(7) On page 8, line 25, strike "(f)" and substitute "(e)".

#### **Floor Amendment No. 15**

Amend Amendment No. 14 by Moreno and Pickett to C.S.S.B. 178 in Subdivision (4) and Subdivision (6) by striking "Brazoria".

#### **Floor Amendment No. 16**

(1) Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0372, Health and Safety Code, Subsection (c), (page 8, on line 15), by deleting "Subsections (d) and (e)" and substituting the following: "Subsections (d), (e) and (f)".

(2) Amend C.S.S.B. 178 (House committee report) in SECTION 3 of the bill, in Section 382.0372, Health and Safety Code (page 8, between lines 24 and 25), by inserting a new Subsection (f) to read as follows and appropriately relettering the subsequent subsection:

"(f) Until January 1, 1996, or until a permanent plan is implemented by the commission, a safety inspection facility in Harris County that was performing parameter testing on the effective date of this section may continue to perform parameter testing and may collect any fee authorized by law or agency rule for performing that test. This section does not require parameter testing for any vehicle."

#### **Floor Amendment No. 17**

Amend C.S.S.B. 178 by adding a new SECTION to the bill to read as follows and renumbering subsequent sections appropriately:

SECTION \_\_\_\_ . If the centralized inspection program is terminated under this Act, any initial lane deposits that were paid to the managing contractor by any subcontractors shall be refunded to those subcontractors by the managing contractor.

#### **Floor Amendment No. 18**

Amend C.S.S.B. 178 in SECTION 3 of the bill, in Section 382.0374(e), Health and Safety Code (House committee report page 11, line 8), by striking "may" and substituting "shall".

**Floor Amendment No. 19**

Amend C.S.S.B. 178 on page 17, between lines 20 and 21 (committee printing), by inserting the following Section, appropriately numbered, to read as follows:

SECTION . The Texas Natural Resource Conservation Commission shall develop and implement a program to, not later than January 31, 1997, increase the number of vehicle emissions inspection facilities by five percent over the number of facilities in operation on January 31, 1996. The program must be designed to encourage the placement of the additional facilities in those areas most in need of testing facilities in a convenient location for densely-populated areas of a municipality and in inner-city areas.

**Floor Amendment No. 20**

Amend C.S.S.B. 178 by adding a new SECTION to the bill, appropriately numbered, to read as follows, and by appropriately renumbering subsequent sections:

SECTION \_\_\_\_ . (a) Notwithstanding Section 3(b)(3), S.B. 19, Acts of the 74th Legislature, Regular Session, 1995, not later than the 90th day after the date on which a vehicle emissions inspection and maintenance program begins or resumes operations in this state, a managing contractor who received funds from the state while the vehicle emissions inspection and maintenance program was delayed shall repay to the state, without interest, the total of any amount paid to the managing contractor under contract or contract amendment terms described by Section 3(b)(2) of that Act.

(b) A managing contractor described by Subsection (a) of this section who does not comply with the requirements of Subsection (a) may not provide any services or perform any activity relating to a vehicle emissions inspection and maintenance program implemented or reinstated on or after May 2, 1995, in this state. This subsection does not restrict the payment by a managing contractor of obligations incurred as a result of the managing contractor's participation in a vehicle emissions inspection and maintenance program the operation of which was suspended before May 2, 1995, or restrict the performance of an action necessary to the cessation of a managing contractor's participation in such a program.

**Floor Amendment No. 23**

Amend C.S.S.B. 178 (House committee report) in SECTION 2 of the bill, Section 382.037(h), Health and Safety Code, (page 2) as follows:

On page 2, line 25, add the following new sentence at the end of Subsection (h) "The Texas Department of Transportation shall require that those vehicle in affected counties that as a result of S.B. 19 were not required to be tested during the period January 1, 1995 to June 1, 1995 submit to the department a valid vehicle emissions inspection certificate, other verification of compliance, or proof of payment of a mitigation fee issued for that vehicle within 90 day preceding the date the owner of the vehicle applies for registration in 1996."

**Floor Amendment No. 24**

Amend C.S.S.B. 178 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 382.037, Health and Safety Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding other provisions of this section, the commission shall establish and implement a vehicle emissions inspection and maintenance program to begin June 1, 1995, as established under Section 382.0371. The vehicle emissions inspection and maintenance program is effective, in whole or in part, until the governor determines, after appropriate negotiation with the United States Environmental Protection Agency, the type of vehicle emissions inspection and maintenance program necessary for the state. The governor shall make every effort to assure that industry does not have to bear the cost of vehicle emissions noncompliance. On making that determination, the governor by executive order shall direct the commission to develop and implement the vehicle emissions inspection and maintenance program determined by the governor under this subsection to be necessary for the state, and all or part of the program established under Section 382.0371 is suspended at that time. The governor under this section may direct the adoption of a particular testing technology or system or a particular combination of technologies, systems, or technologies and systems and may adjust appropriate fees as necessary. The governor under this section may direct the exemption of a county from or the inclusion of a county in a vehicle emissions inspection and maintenance program if required.

(d) On adoption of a resolution by the board and after proper notice, the [Texas] Department of Public Safety [Transportation] shall implement a system that requires, as a condition of obtaining a safety inspection certificate issued under Section 140 or 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) [registering a motor vehicle under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes)], in a county that is included in a vehicle emissions inspection and maintenance program under Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), that the vehicle, unless the vehicle is not covered by the system [or is being registered in conjunction with the vehicle's first sale as that term is defined by Section 7, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes)], be annually or biennially inspected under the vehicle emissions inspection and maintenance program as required by the Texas air quality state implementation plan or Section 382.0371. The [Texas] Department of Public Safety [Transportation] shall implement such a system when it is required by any provision of federal or state law, including any provision of the Texas air quality state implementation plan. The board may not require or accept verification of compliance other than a vehicle inspection certificate. [The alternative verification of compliance shall be in a form determined through joint rule making by the board and the Texas Department of Transportation.]

SECTION 2. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0371 to read as follows:

Sec. 382.0371. VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM. (a) The commission, in cooperation with the Department of Public Safety of the State of Texas, shall establish a vehicle emissions inspection and maintenance program in accordance with this section and rules adopted under this section.

(b) A program established under this section applies to a motor vehicle that is registered in a county in one of the following areas:

(1) the part of the Houston-Galveston ozone nonattainment area that consists of Brazoria, Fort Bend, Galveston, Harris, and Montgomery counties;

(2) the Dallas-Fort Worth ozone nonattainment area, consisting of Dallas and Tarrant counties; and

(3) the El Paso ozone nonattainment area, consisting of El Paso County.

(c) After the date of the second anniversary of the vehicle's first sale, a vehicle subject to this section:

(1) must be tested annually; and

(2) may not be issued a safety inspection certificate unless, at the time of the safety inspection, the person seeking the safety inspection certificate presents to the appropriate person:

(A) proof of the date of the vehicle's first sale in a form approved by the Department of Public Safety of the State of Texas; and

(B) proof in a form approved by the commission that the vehicle has passed the appropriate vehicle emissions inspection required for that vehicle under this section.

(d) A vehicle may be tested at a decentralized test-only facility or a decentralized test-and-repair facility at the option of the vehicle owner.

(e) The commission by rule shall prescribe the types of vehicle emissions tests to be used at each type of testing facility. The commission may prescribe different types of tests to be used at different types of facilities or in different nonattainment areas. The commission may not require in any nonattainment area an emissions testing technology or procedure that is more stringent than a technology or procedure used or in place in vehicle emissions inspection and maintenance programs in this state before January 1, 1994.

(f) A dual-fueled vehicle must be tested as required by this section if one of the fuels used is gasoline.

(g) A vehicle emissions test required by this section may be performed by the same facility that performs the safety inspection if that facility is authorized and licensed by the commission to perform the vehicle emissions test and certified by the Department of Public Safety of the State of Texas to perform the safety inspection.

(h) The commission shall develop and implement a program to certify, inspect, and audit vehicle emissions testing facilities. The commission may set and collect a certification fee sufficient to recover the costs of implementing the certification, inspection, and audit program established

under this subsection. In addition to other penalties authorized by this chapter, the commission after an opportunity for a hearing may revoke the certification of a facility that violates this chapter or a rule adopted under this chapter. Fees and penalties collected under this subsection are Clean Air Act fees as defined by Section 382.0622.

(i) This section applies to the issuance of safety inspection certificates issued under Section 140 or 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), on or after June 1, 1995, for all vehicles subject to this section.

(j) This section does not apply to a motor vehicle that:

(1) is an antique motor vehicle registered under Section 5a, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-5a, Vernon's Texas Civil Statutes);

(2) is a classic motor vehicle registered under Section 5n, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-5n, Vernon's Texas Civil Statutes); or

(3) is a slow-moving vehicle required to display a slow-moving-vehicle emblem by Section 139B, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(k) In this section:

(1) "First sale" of a motor vehicle has the meaning assigned by Section 7, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

(2) "Safety inspection" means a compulsory inspection performed as required by Section 140 or 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), by an official inspection station issued a certificate of appointment by the Department of Public Safety of the State of Texas under Section 141(a) of that Act.

(3) "Safety inspection certificate" means an inspection certificate issued under Section 140 or 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), after a compulsory inspection required by Section 140 or 141 of that Act, by an official inspection station issued a certificate of appointment by the Department of Public Safety of the State of Texas under Section 141(a) of that Act.

SECTION 3. Section 382.038(b), Health and Safety Code, is amended to read as follows:

(b) A vehicle emissions inspection may be performed at a decentralized independent inspection station [~~or at a centralized inspection facility operated or~~] licensed by the state. In developing the program for vehicle emissions inspections, the board shall make all reasonable efforts to preserve the present decentralized system.

SECTION 4. Section 2(a), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by this subsection, every owner of a motor vehicle, trailer or semitrailer used or to be used upon the public highways of this State shall apply each year to the Texas Department of

Transportation through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided, that where a public highway separates lands under the dominion or control of the owner, the operation of such a motor vehicle by such owner, his agent or employee, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State. An all-terrain vehicle, with or without design alterations, may not be registered for operation on public highways, except that the State, a county, or a municipality may register an all-terrain vehicle for operation on public beaches and highways to maintain public safety and welfare. In lieu of highway motor vehicle registration, the owner of an all-terrain vehicle that is not authorized to operate on public beaches or highways and that is used or to be used on public property in this State shall apply each year to the Texas Department of Transportation through the County Tax Collector of the county in which he resides for off-highway registration of each vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion of the calendar year. ~~[The Texas Department of Transportation through the County Tax Collector shall require an applicant for registration of a vehicle in a county that is not covered by a vehicle emissions inspection program to provide evidence that the applicant is a resident of that county. The Department by rule shall prescribe acceptable forms and types of evidence. Acceptable forms and types of evidence may include voter registration information, driver's license information, utility billing information, property tax payment information, a school tuition receipt, or evidence of compliance with the Texas Motor Vehicle Safety Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).]~~ The County Tax Collector, a deputy County Tax Collector, or a person acting on behalf of the County Tax Collector is not liable to any person for refusing to register a motor vehicle because of the person's failure to submit evidence of residency that complies with rules of the Department or for registering a motor vehicle under this section.

SECTION 5. Section 140(c), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Official inspection stations appointed and supervised by the State of Texas shall make all inspections pursuant to the provisions of this Section, except as provided in subdivision (d) hereof. The Department shall cause one (1) inspection to be made in the year commencing with the effective date of this Act, and annually thereafter. If the motor vehicle, trailer, semi-trailer, pole trailer or mobile home, registered in this State, is damaged to the apparent extent that it would require repair before passing state inspection, the investigating officer shall remove the inspection certificate from the vehicle windshield and shall give the operator of the vehicle a dated receipt. Within thirty (30) days of the date indicated on the receipt, the vehicle shall be reinspected. The periods of inspection shall be fixed by the Department, provided, however, that at no time, except as provided in Section 142A of this Act ~~[or as may be~~

~~provided under Section 382.037, Health and Safety Code], shall a certificate of inspection or a receipt for a certificate of inspection be required or demanded as a condition precedent to securing a license plate for any motor vehicle, regardless of any period or periods of inspection as may be fixed by the Department. The Department shall have power to make rules and regulations, not inconsistent with law, with respect to the periods of inspection. [This subsection does not affect the authority of the Texas Natural Resource Conservation Commission under Section 382.037, Health and Safety Code, to require a valid vehicle emissions inspection certificate as a condition of registering a vehicle under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes).]~~

SECTION 6. Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The Texas Natural Resource Conservation Commission may authorize and license inspection stations as necessary to conduct the emissions-related inspection ~~[reinspection]~~ requirements of the vehicle emissions inspection and maintenance program under Sections 142(d) and (d-1) of this Act ~~and Section 382.0371, Health and Safety Code~~. At the request of the Texas Natural Resource Conservation Commission, the Department shall provide inspection certificates for distribution and issuance at decentralized inspection ~~[centralized reinspection]~~ stations licensed by the Texas Natural Resource Conservation Commission. ~~The decentralized inspection stations [Texas Natural Resource Conservation Commission]~~ shall pay to the Department an amount equal to the cost of producing the certificates. The Texas Natural Resource Conservation Commission ~~may~~ ~~[shall]~~ establish a maximum inspection ~~[a reinspection]~~ fee but may not establish a minimum inspection fee. ~~The Texas Natural Resource Conservation Commission [and]~~ shall implement procedures governing tracking of certificates and refunding the cost of unused certificates issued to inspection ~~[reinspection]~~ facilities.

(a-2) The Department may issue a certificate of appointment under this section authorizing the performance of compulsory inspections required under this section and Section 140 of this Act to a decentralized facility authorized and licensed by the Texas Natural Resource Conservation Commission to perform vehicle emissions inspection if the facility meets the Department's requirements and the requirements of this section for certification.

SECTION 7. Section 141(d)(5), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(5)(A) The owner of a motor vehicle on which is displayed an inspection certificate in violation of Subdivision (2) of this subsection commits an offense if the vehicle is operated ~~[or parked]~~ on a public highway.

(B) ~~An [Except as provided by Paragraph (C) of this subdivision, an]~~ offense under this subdivision is punishable by a fine of not less than \$1 ~~[\$100]~~ or more than \$200.

~~[(C) An offense under this subdivision is a Class B misdemeanor if the inspection certificate is a vehicle emissions inspection certificate and the owner knows that the certificate is prohibited by Subdivision (2) of this subsection.~~

~~[(D) A motor vehicle on which is displayed a vehicle emissions inspection certificate in violation of Subdivision (2) of this subsection and that is operated or parked on a public roadway may be impounded by a peace officer or other authorized employee of the state or the political subdivision of the state in which the vehicle is parked or operated.]~~

SECTION 8. Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsections (d) and (d-1), by adding Subsection (e-1), and by amending Subsections (f) and (h) to read as follows:

(d) The Public Safety Commission shall establish a motor vehicle emissions inspection and maintenance program for vehicles covered by the Texas air quality state implementation plan, authorized under Section 382.0371, Health and Safety Code, or otherwise specified by the Texas Natural Resource Conservation Commission at the direction of the governor ~~[registered]~~ in any county in this state for which the Texas Natural Resource Conservation Commission has adopted a resolution requesting the department to institute such a program and which satisfies one of the following conditions:

(1) the county does not meet the national ambient air quality standards for ozone, carbon monoxide, or another vehicle-related pollutant; or

(2) the vehicle emissions inspection and maintenance program is required by any provision of federal law, including any provision of the Texas air quality state implementation plan.

(d-1) The Public Safety Commission may establish a motor vehicle emissions inspection and maintenance program for vehicles specified by the Texas Natural Resource Conservation Commission at the direction of the governor ~~[registered]~~ in any county in this state for which the Texas Natural Resource Conservation Commission has adopted a resolution requesting the Department to institute such a program and for which the affected county and the most populous municipality in the county, according to the most recent federal decennial census, by resolution have formally requested a proactive air quality plan consisting of a vehicle emissions inspection and maintenance program. A program initiated under this subsection may not include registration-based enforcement ~~[unless the State Department of Highways and Public Transportation elects to include the program in its registration enforcement system].~~

(e-1) The Public Safety Commission shall develop and implement requirements necessary to ensure that a safety inspection certificate is not issued under Section 140 or 141 of this Act to a vehicle that is subject to a vehicle emissions inspection and maintenance program established under Subsection (d) or (d-1) of this section unless the vehicle has passed



a vehicle emissions inspection at a facility authorized and licensed by the Texas Natural Resource Conservation Commission.

(f) The department may issue a unique inspection certificate for those vehicles inspected pursuant to Subsection (d) or (d-1) of this section. The department shall authorize a vehicle emissions inspection facility authorized and licensed by the Texas Natural Resource Conservation Commission to issue this unique inspection certificate for a vehicle on appropriate proof that both emissions and safety inspection requirements have been met.

(h) The Public Safety Commission shall continue to administer the motor vehicle emissions inspection and maintenance program instituted under this Act until the date that a vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission is implemented in accordance with the federal Clean Air Act. The executive director of the Texas Natural Resource Conservation Commission shall notify the Public Safety Commission of the date on which the vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission will become effective. If for any reason the vehicle emissions inspection and maintenance program administered by the Texas Natural Resource Conservation Commission is suspended or discontinued, the Texas Natural Resource Conservation Commission at the direction of the governor under Section 382.037(a-1), Health and Safety Code, may reestablish a program in accordance with Subsection (d) or (d-1) of this section or otherwise as directed by the governor under Section 382.037(a-1), Health and Safety Code.

SECTION 9. Effective May 2, 1995, the following are repealed:

(1) Sections 382.037(o) and (p), Health and Safety Code, as added by S.B. 19, Acts of the 74th Legislature, Regular Session, 1995;

(2) Section 2, S.B. 19, Acts of the 74th Legislature, Regular Session, 1995;

(3) Sections 382.037(h), (i), (j), and (l), Health and Safety Code;

(4) Sections 2(i) and 2(j)(1), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes);

(5) Section 3(j), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes);

(6) Articles 6675b-4, 6675b-4A, and 6675b-4B, Revised Statutes; and

(7) Subsections (a-1) and (a-2), Section 4.202, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes).

SECTION 10. The Texas Natural Resource Conservation Commission shall work with the United States Environmental Protection Agency to develop reasonable alternatives to the vehicle emissions inspection and maintenance program that include fuel and oil additives, geothermal heat pumps for which a retail public utility provides water service, automobile muffler and radiator catalysts, and an automotive fuel purge and pressure test. The commission may adopt an approved alternative technology of the

sort listed without the direction of the governor under Section 382.037(a-1), Health and Safety Code, as added by this Act.

SECTION 11. (a) On May 2, 1995, the Texas Natural Resource Conservation Commission, the Texas Department of Transportation, and the Public Safety Commission may commence operation and implementation of the vehicle emissions inspection and maintenance program authorized under Section 382.037, Health and Safety Code, and in the form established by Section 382.0371, Health and Safety Code, as added by this Act.

(b) Immediately after the effective date of this Act, the Texas Natural Resource Conservation Commission shall adopt emergency rules to implement the vehicle emissions inspection and maintenance program in the form established by Sections 382.037(a-1) and 382.0371, Health and Safety Code, as added by this Act. The commission shall adopt final rules as soon as practicable after the adoption of emergency rules.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Floor Amendment No. 25

Amend Amendment No. 24 to C.S.S.B. 178 as follows:

(1) In SECTION 2 of the amendment Subsection (b) of Section 382.0371 (page 3, line 17), after "consisting of" insert the following new language, "Collin, Denton".

(2) In SECTION 2 of the amendment in Subsection (c) of Section 382.0371 (page 4, line 16), after "place in", insert the following new language, "each county in".

#### Floor Amendment No. 26

Amend Amendment No. 24 to C.S.S.B. 178 by adding a new SECTION to the amendment, appropriately numbered, to read as follows, and by appropriately renumbering subsequent sections:

SECTION \_\_\_\_\_. (a) Notwithstanding Section 3(b)(3), S.B. 19, Acts of the 74th Legislature, Regular Session, 1995, not later than September 1, 1995, a managing contractor who received funds from the state while the vehicle emissions inspection and maintenance program was delayed shall repay to the state, without interest, the total of any amount paid to the managing contractor under contract or contract amendment terms described by Section 3(b)(2) of that Act.

(b) A managing contractor described by Subsection (a) of this section who does not comply with the requirements of Subsection (a) may not provide any services or perform any activity relating to a vehicle emissions inspection and maintenance program implemented or reinstated on or after May 2, 1995, in this state. This subsection does not restrict the payment by a managing contractor of obligations incurred as a result of the managing contractor's participation in a vehicle emissions inspection and

maintenance program the operation of which was suspended before May 2, 1995, or restrict the performance of an action necessary to the cessation of a managing contractor's participation in such a program.

**Floor Amendment No. 1 on Third Reading**

Amend C.S.S.B. 178 on 3rd reading by amending 2nd reading Amendment No. \_\_\_ by Horn as follows:

(1) In the heading to SECTION 1 of the substitute (page 1, line 4), after "Subsection (d)", insert the following new language "and Subsection (n)".

(2) In SECTION 1 of the substitute, Section 382.037, Health and Safety Code, strike the word "board" (page 2, line 25), and insert "Department of Public Safety".

(3) In SECTION 1 of the substitute, Section 382.037, Health and Safety Code, strike Subsection (n) (page 3, between line 2 and 3) and insert a new Subsection (n) to read as follows:

"(n) The board may conduct audits to determine compliance with this section ~~and with any vehicle emissions inspection and certificate programs under Sections 141 and 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).~~".

(4) In SECTION 2 of the substitute, Section 382.0371, Health and Safety Code, strike the word "commission" (page 4, line 3), and insert "Department".

(5) In SECTION 2 of the substitute, Section 382.0371, Health and Safety Code, strike the word "commission" (page 4, line 22), and insert "Department".

(6) In SECTION 2 of the substitute, Section 382.0371, Health and Safety Code, strike the word "commission" (page 4, line 26), and insert "Department of Public Safety".

(7) In SECTION 2 of the substitute, Section 382.0371, Health and Safety Code, strike the word "commission" (page 5, line 1), and insert "Department".

(8) In SECTION 2 of the substitute, Section 382.0371, Health and Safety Code, strike the word "commission" (page 5, line 4), and insert "Department".

(9) In SECTION 2, of the substitute, Section 382.0371, Health and Safety Code (page 4, line 22 and 23), strike "commission" and insert "department".

(10) In SECTION 2, of the substitute, Section 382.0371, Health and Safety Code (page 5, line 8), strike "Clean Air Act fees as defined by Section 382.0622" and insert "Motor Vehicle Inspection Fund 274".

(11) In SECTION 2 of the substitute, Section 382.0371(k), Health and Safety Code (page 6, after line 15) insert new Subsections (4) and (5) to read as follows:

"(4) "Department" means Texas Department of Public Safety.

(5) "Commission" means Texas Natural Resource Conservation Commission".

(12) In SECTION 3 of the substitute, Section 382.038, Health and Safety Code, is amended by substituting a new "SECTION 3." to read as follows:

"SECTION 3. Section 382.038, Health and Safety Code, is amended by amending Subsections (a), (b), (d), and (e) to read as follows:

(a) The Department of Public Safety board by rule shall adopt standards and procedures for establishing vehicle emissions inspection stations authorized and licensed by the state.

(b) A vehicle emissions inspection may be performed at a decentralized independent inspection station or at a centralized inspection facility operated or licensed by the state. In developing the program for vehicle emissions inspections, the Department of Public Safety board shall make all reasonable efforts to preserve the present decentralized system.

(d) The Department of Public Safety board may authorize enforcement personnel or other individuals to remove, disconnect, adjust, or make inoperable vehicle emissions control equipment, devices, or systems and to operate a vehicle in the tampered condition in order to perform a quality control audit of an inspection station or other quality control activities as necessary to assess and ensure the effectiveness of the vehicle emissions inspection and maintenance program.

(e) The Department of Public Safety board shall develop a challenge station program to provide for the reinspection of a motor vehicle at the option of the owner of the vehicle to ensure quality control of a vehicle emissions inspection and maintenance system."

(13) In SECTION 6, of the substitute, amend Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 9, line 21), by striking "The Texas Natural Resource Conservation Commission" and insert "department".

(14) In SECTION 6, of the substitute, amend Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 9, lines 26 and 27), by striking "at the request to the Texas Natural Resource Conservation Commission, the" and insert "The".

(15) In SECTION 6, of the substitute, amend Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 10, line 3), by striking "Texas Natural Resource Conservation Commission, the" and insert "Department".

(16) In SECTION 6, of the substitute, amend Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 10, lines 6 and 7), by striking "Texas Natural Resource Conservation Commission" and insert "Department".

(17) In SECTION 6, of the substitute, amend Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 10, lines 16 and 17), by striking "Texas Natural Resource Conservation Commission" and insert "Department".

(18) In SECTION 8, of the substitute, amend Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (beginning on page 12, line 27), by striking "Texas Natural Resource Conservation Commission" and insert "Department".

(19) In SECTION 8 of the substitute, amend Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 11, lines 22 and 23), by striking "by the Texas Natural Resource Conservation Commission" and inserting "Department".

(20) In SECTION 8 of the substitute, amend Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) (on page 13, line 5 and line 6) by striking "Texas Natural Resource Conservation Commission" and inserting "Department".

(21) In SECTION 8 of the substitute, Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsection (h) to read as follows:

"(h) The Public Safety Commission shall continue to administer the motor vehicle emissions inspection and maintenance program instituted under this Act until the date that a vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission is implemented in accordance with the federal Clean Air Act. The executive director of the Texas Natural Resource Conservation Commission shall notify the Public Safety Commission of the date on which the vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission will become effective the vehicle emissions inspection and maintenance program administered by the Department of Public Safety is suspended or discontinued, at the direction of the governor under Section 382.037(a-1), Health and Safety Code. The department may reestablish a program in accordance with Subsection (d) or (d-1) of this section or otherwise as directed by the governor under Section 382.037(a-1), Health and Safety Code.

(22) In SECTION 11 insert a new Subsection (c) to read as follows:

"(c) All requirements established under Section 382.037(d), Health and Safety Code, that prevent a vehicle from receiving a vehicle inspection certificate in accordance with 6675-a2, Uniform Act Regulating Traffic on Highways (Vernon's Texas Civil Statutes), shall be suspended until the Department of Public Safety has reinstated the vehicle emissions inspection and maintenance program.

(23) In SECTION 2, of the substitute, Section 382.0371(j), Health and Safety code (page 5, after line 25), insert a new Subsection (4) to read as follows:

"(4) is a circus vehicle".

(24) In SECTION 2, of the substitute, Section 382.0371, Health and Safety Code (page 5, after line 25), insert a new Subsection to read as follows:

"(1) The Department may exempt from this section fleet vehicles registered in a nonattainment area that operate exclusively outside the area."

#### **Floor Amendment No. 2 on Third Reading**

Amend C.S.S.B. 178 on 3rd reading by amending 2nd reading Amendment No. \_\_\_\_ by Horn as follows:

Following SECTION 10 of the substitute, add a new SECTION to read as follows:

"SECTION \_\_\_\_: Any change or amendment to the vehicle emissions inspection and maintenance program allowed or contemplated by this Act, including any change or amendment to that program negotiated and agreed to by the governor:

(1) is an amendment or repeal of that program under any contract for implementation of that program;

(2) does not constitute a default by the state under a contract for implementation of that program;

(3) is not a waiver of the state's defenses available under law or under any existing contract for the implementation of that program; and

(4) does not waive the state's sovereign immunity or any defenses available to the state.

The amendments were read.

Senator Whitmire moved to concur in the House amendments to **S.B. 178**.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Gallegos, Galloway, Harris, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, Whitmire, Zaffirini.

Nays: Ellis, Leedom, West.

#### **CAPITOL PHYSICIAN**

Senator Nelson was recognized and presented Dr. Erica Swegler of Grapevine as the "Doctor for the Day."

The Senate welcomed Dr. Swegler and thanked her for her participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

#### **CONCLUSION OF MORNING CALL**

The President at 10:31 a.m. announced the conclusion of morning call.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 971 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 971**, Relating to health care liability claims.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 971 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 971** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

### BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.B. 320	H.B. 1475
H.B. 750	H.B. 1529
H.B. 751	H.C.R. 87
H.B. 840	H.C.R. 179

(Senator Leedom in Chair)

### COMMITTEE SUBSTITUTE SENATE BILL 1317 ON SECOND READING

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 1317**, Relating to the regulation and promotion of aquaculture; providing a penalty.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **C.S.S.B. 1317** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Patterson, Truan.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **C.S.S.B. 1317** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION \_\_\_\_ . Subchapter A, Chapter 134, Agriculture Code, is amended by adding Section 134.0011 to read as follows:

**Sec. 134.0011. MORATORIUM ON EXPANDING EXISTING OR BUILDING NEW AQUACULTURE FACILITY.** (a) Notwithstanding other law, construction may not begin on a new aquaculture facility that will be used for aquaculture or on the expansion of an existing aquaculture facility that is or will be used for aquaculture until the earlier of:

(1) September 1, 1999; or

(2) the date the Texas Natural Resource Conservation Commission finds that economically feasible treatment technology is available that will

allow aquaculture facilities to meet applicable total suspended solids effluent limits.

(b) This section does not prohibit continuing construction on a new aquaculture facility or on the expansion of an existing aquaculture facility if construction was begun before September 1, 1995. For purposes of this section, construction is considered to begin when substantial on-site physical construction of the new or expanded facility begins.

(c) This section expires September 1, 1999.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTES

Senators Patterson and Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### COMMITTEE SUBSTITUTE SENATE BILL 1317 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1317 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Patterson, Truan.

The bill was read third time and was passed by a viva voce vote.

#### RECORD OF VOTES

Senators Patterson and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

#### COMMITTEE SUBSTITUTE SENATE BILL 1544 ON SECOND READING

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1544, Relating to amending certain provisions of the Insurance Code, including those relating to authorized investments of insurers.

The bill was read second time.

Senator Henderson offered the following amendment to the bill:



**Floor Amendment No. 1**

Amend C.S.S.B. 1544, SECTION 2, subsection (h), between the words "limited partnership," and "joint venture" by deleting the words "joint-stock company," and inserting the words "a limited partnership interest in a"

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1544 ON THIRD READING**

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1544 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 405 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 405**, Relating to the distribution of the foundation school fund and to tax and revenue anticipation notes made necessary in part by such distribution.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 405 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 405 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1044 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1044**, Relating to elevator inspections.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.S.B. 1044 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION AND CERTIFICATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "ASME Code A17.1" means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.1.

(2) "ASME Code A17.3" means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3.

(3) ~~[(1)]~~ "Board" means the elevator advisory board.

(4) "Commission" means the Texas Commission of Licensing and Regulation.

(5) ~~[(2)]~~ "Commissioner" means the commissioner of licensing and regulation.

(6) "Department" means the Texas Department of Licensing and Regulation.

(7) "Qualified historic building or facility" means a building or facility that is:

(A) listed in or eligible for listing in the National Register of Historic Places; or

(B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.

(8) ~~[(3)]~~ "Related equipment" means automatic equipment that is used to move a person in a manner that is similar to that of an elevator or escalator and includes a ~~[dumbwaiter, manlift, and]~~ moving sidewalk.

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of nine members appointed by the commissioner as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of elevator, escalator, and related equipment constructors;

(3) a representative of owners or managers of buildings having fewer than six stories and having an elevator, an escalator, or related equipment;

(4) a representative of owners or managers of buildings having six stories or more and having an elevator, an escalator, or related equipment;

(5) a representative of independent elevator, escalator, and related equipment maintenance companies;

(6) a representative of elevator, escalator, and related equipment manufacturers;

(7) a representative of professional engineers or architects;

(8) a public member; and

(9) a public member with a physical disability.

- (b) Board members serve at the will of the commissioner.
- (c) The commissioner shall appoint a presiding officer of the board.
- (d) The board shall meet at least twice each calendar year.
- (e) A board member serves without compensation but is entitled to reimbursement for travel and other necessary expenses incurred in performing duties under this subchapter.

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commissioner on:

(1) the adoption of appropriate standards for the installation, alteration, ~~[and] operation, and inspection~~ of elevators, escalators, and related equipment;

(2) the status of elevators, escalators, and related equipment used by the public in this state; and

(3) any other matter considered relevant by the commissioner.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER.

(a) The commissioner shall adopt standards for the installation, alteration, ~~[and] operation, and inspection~~ of elevators, escalators, and related equipment used by the public in:

(1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and

(2) buildings that contain an elevator, an escalator, or related equipment that the public is generally invited to use, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted by the commissioner may not contain requirements in addition to the requirements in the ASME Code A17.1 or ASME Code A17.3.

(c) Standards adopted by the commissioner must require elevators, escalators, and related equipment to comply with the installation requirements of the following, whichever is the least restrictive:

(1) the ASME Code A17.1 that was in effect on the date of installation of the elevators, escalators, and related equipment; or

(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation.

(d) Standards adopted by the commissioner must require elevators, escalators, and related equipment to comply with the installation requirements of the 1994 ASME Code A17.3 that contains minimum safety standards for all elevators, escalators, and related equipment, regardless of the date of installation.

(e) On written request, the commissioner may grant a delay for compliance with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act.

(f) On written request, the commissioner shall grant a delay until September 1, 2005, for compliance with the requirements for door

restrictors or firefighter's service in the 1994 ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation of the elevator, escalator, or related equipment and that equipment was not subsequently installed by an owner of the elevator, escalator, or related equipment.

(g) The commissioner may grant a waiver of compliance with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3 if the commissioner finds that:

(1) the building in which the elevator, escalator, or related equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; and

(2) noncompliance will not constitute a significant threat to passenger safety.

(h) The commissioner may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(i) This subchapter does not apply to an elevator, an escalator, or related equipment in an industrial facility, or in a grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited principally to employees of or working in that facility or structure.

(j) The commissioner may charge a reasonable fee as set by the commission for an application for waiver or delay. One application for a waiver or delay may contain all requests related to a particular building. A delay may not be granted indefinitely but must be granted to a specified time.

(k) For purposes of this section, the date of installation is the date that the owner of the real property entered into a contract for the purchase of the elevators, escalators, or related equipment. If that date cannot be established, the date of installation is the date of issuance of the municipal building permit under which the elevators, escalators, or related equipment was constructed or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the elevators, escalators, or related equipment was installed [In adopting the standards, the commissioner shall adopt standards for elevators, escalators, and related equipment:

(1) constructed or installed before September 1, 1993, that are in compliance with the latest edition of the ASME Safety Code for Existing Elevators and Escalators A17.3; and

(2) constructed or installed on or after September 1, 1993, that are in compliance with the latest edition of the ASME Safety Code for Elevators and Escalators A17.1.

(c) In the event that compliance with ASME Safety Code for Existing Elevators and Escalators A17.3 is not "readily achievable" as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101

et seq.) and its subsequent amendments, or its regulations, ~~the commission shall authorize the certified inspector to waive or delay compliance with the particular standard which is not readily achievable. Provided however, in any event, an elevator, an escalator, or related equipment must at least be in compliance with the ASME Safety Code for Elevators and Escalators A17.1 in existence at the time of the construction of the elevator, escalator, or related equipment. The commission may charge reasonable fees for any application for waiver or delay.~~

Sec. 754.015. RULES. (a) The commissioner by rule shall provide for:

(1) the ~~[annual]~~ inspection and certification once each calendar year of elevators, escalators, and related equipment covered by standards adopted under this subchapter;

(2) the enforcement of those standards;

(3) the certification of qualified persons as inspectors for the purposes of this subchapter; and

(4) the form of the inspection report and certificate of compliance ~~[inspection]~~.

(b) The commissioner by rule may not require that:

(1) inspection be made more often than once per year of elevators, escalators, and related equipment;

(2) persons post a bond or furnish insurance as a condition of certification; and

(3) inspection reports or certificates of compliance ~~[inspection]~~ be placed in locations other than one provided in Section 754.019(4).

Sec. 754.016. INSPECTION REPORT AND ~~[Coverage of]~~ CERTIFICATE OF COMPLIANCE ~~[inspection]~~. (a) An inspection report and a ~~[A]~~ certificate of compliance ~~[inspection]~~ required under this subchapter must cover all elevators, escalators, and related equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. There shall be only one inspection report and one certificate of compliance ~~[inspection]~~ for each building.

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner. The inspection report shall be on forms designated by the commissioner.

(c) The commissioner shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state that the elevators, escalators, and related equipment have been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the commissioner and stated in the certificate ~~[The certificate of inspection shall specify the number of elevators in the building and shall specifically describe any elevators not in compliance with this subchapter, stating the reason or reasons for noncompliance].~~

Sec. 754.017. CERTIFIED INSPECTORS. (a) An inspector must register with the department and ~~[meet the qualification requirements of the ASME-QEI-1. An inspector or inspection supervisor must]~~ be certified as

an ASME-OEI-1 inspector by an organization accredited by the American Society of Mechanical Engineers [~~ASME in accordance with the requirements of ASME-OEI-1~~]. Any [~~accreditation or~~] certification charges or fees shall be paid by the inspector.

(b) The commissioner may not by rule prohibit an ASME-OEI-1 certified inspector who is registered with the department from inspecting [~~and certifying~~] under this subchapter an elevator, an escalator, or related equipment. A person assisting a certified inspector is not required to be ASME-OEI-1 certified.

(c) The commissioner may charge a \$15 [~~\$10~~] fee to certified inspectors for registering with the department [~~Texas Department of Licensing and Regulation~~].

Sec. 754.0171. INSPECTION FEE. A person inspecting an elevator, an escalator, or related equipment under this subchapter may not charge more than \$65 per elevator cab or per escalator for each inspection.

Sec. 754.018. POWERS OF MUNICIPALITIES. If a municipality operates a program for the inspection and certification of elevators, escalators, and related equipment, this subchapter shall not apply to elevators, escalators, and related equipment in that municipality, provided that the standards of inspection and certification are no less stringent than those contained in this subchapter.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The owner of real property on which an elevator, an escalator, or related equipment covered by this subchapter is located shall:

(1) have the elevator, escalator, or related equipment inspected by an ASME-OEI-1 certified inspector [~~and certified~~] in accordance with the commissioner's rules;

(2) obtain an inspection report from the inspector [~~a certificate of inspection~~] evidencing that all elevators, escalators, and related equipment in a building on the real property were [~~the elevator, escalator, or related equipment was~~] inspected in accordance with this subchapter and rules adopted under this subchapter [~~determined to be in compliance with the safety standards adopted under Section 754.014~~];

(3) file with the commissioner a copy of each inspection report [~~certificate of inspection~~] and a \$20 [~~\$15~~] filing fee for each report, plus \$5 for each elevator or escalator, [certificate] not later than the 60th [~~30th~~] day after the date on which an inspection is made under this subchapter; [~~and~~]

(4) display the certificate of compliance [~~inspection~~]:

(A) in the elevator mechanical room if the certificate relates to [~~the inspection of~~] an elevator;

(B) in the escalator box if the certificate relates to [~~the inspection of~~] an escalator; or

(C) in a place designated by the commissioner if the certificate relates to [~~the inspection of~~] related equipment; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued by the commissioner.

(b) When an inspection report is filed with the commissioner, the owner shall submit to the commissioner:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(c) An inspection must be made not later than 18 months after the previous calendar year's inspection. This subsection does not affect the requirement that elevators be inspected at least once each calendar year.

(d) [(b)] For the purpose of determining timely filing under Subsection (a)(3), an inspection report [a certificate] and fee are considered filed on the date of mailing by United States mail if properly addressed to the commissioner.

(e) [(c)] If the inspection report [certificate copy] and [the] fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional \$100 fee for late filing.

(f) [(d)] The commissioner may not require that an inspection report or [a] certificate of compliance [inspection] be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.

(g) [(e)] A fee may not be charged or collected for a certificate of compliance [inspection] for an institution of higher education as defined in Section 61.003, Education Code.

Sec. 754.020. DEPOSIT OF FEES. Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the commissioner only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter.

Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The commissioner may:

(1) compile a list of ASME-OEI-1 certified inspectors who are registered with [inspectors certified by] the department [commissioner] to perform an inspection under this subchapter; and

(2) employ personnel as necessary to enforce this subchapter.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the commissioner learns of a situation of noncompliance under Section 754.019, the commissioner shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; LICENSE PROCEEDINGS; INJUNCTION. (a) If there is good cause for the commissioner to believe that an elevator, an escalator, or related equipment on real property is dangerous or that an accident involving an elevator, an escalator, or related equipment occurred on the property and serious bodily injury or property damage resulted, the commissioner may enter the property during regular

business hours after notice to the owner, operator, or person in charge of the property to inspect the elevator, escalator, or related equipment or investigate the accident at no cost to the owner.

(b) The commissioner may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commissioner may deny, suspend, or revoke the registration of any ASME-OEI-1 certified inspector for:

(1) obtaining registration with the commissioner by fraud or false representation;

(2) falsifying any inspection report submitted to the commissioner; or

(3) violating this subchapter or a rule adopted under this subchapter.

(d) The commissioner is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(e) [(b)] The commissioner may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the commissioner in the suit.

Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an offense if the person receives notice of noncompliance under Section 754.022 and the person has not remedied ~~[fails or refuses to remedy]~~ the noncompliance or entered into a bona fide contract to remedy the noncompliance before the 61st ~~[31st]~~ day after the date on which the notice is received.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day of an offense under Subsection (a) ~~[failure or refusal to remedy the noncompliance after the 30th day after the date on which the notice is received]~~ constitutes a separate offense.

SECTION 2. This Act takes effect September 1, 1995.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

#### COMMITTEE SUBSTITUTE SENATE BILL 1044 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1044 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.



The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 833 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 833**, Relating to application of the sales and use tax to certain aircraft.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 833 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 833** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 913 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 913**, Relating to retaliation against a resident of a nursing home or related institution for reports of abuse or neglect.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **S.B. 913** in SECTION 1 of the bill, in Section 242.1335, Health and Safety Code, by striking Subsection (c) and substituting the following:

(c) A resident who seeks relief under this section must report the alleged violation not later than the 180th day after the date on which the alleged violation of this section occurred or was discovered by the resident through reasonable diligence.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 913 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 913** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Wentworth in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1136 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1136**, Relating to the calculation of the tax rate of a taxing unit imposing an additional sales and use tax and to taxpayer information on the effect of the additional sales and use tax.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1136 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1136** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1190 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1190**, Relating to the duty of nonprofit, tax-exempt hospitals to provide charity care.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1190 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1228 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1228**, Relating to review of public institutions of higher education by the state postsecondary review entity.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1228 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1228** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**SENATE BILL 1671 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1671**, Relating to the validation of governmental acts and proceedings by municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1671 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1671** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 978 ON THIRD READING**

Senator Brown, on behalf of Senator Sims, moved that the regular order of business be suspended and that **C.S.S.B. 978** be placed on its third reading and final passage.

**C.S.S.B. 978**, Relating to cost-benefit analysis of environmental rules proposed for adoption by certain state agencies.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

Nays: Barrientos, Gallegos, Luna, Rosson, Truan, West, Zaffirini.

The bill was read third time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.S.B. 978 as follows:

Amend SECTION 2001.0225(a)(2) by adding "or" after the word "law;"

Delete SECTION 2001.0225(a)(4)

The amendment was read and was adopted by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

Nays: Barrientos, Gallegos, Luna, Rosson, Truan, West, Zaffirini.

The bill as amended was finally passed by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

Nays: Barrientos, Ellis, Gallegos, Luna, Rosson, Truan, West, Zaffirini.

**COMMITTEE SUBSTITUTE  
SENATE BILL 590 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 590**, Relating to the authority of the Department of Agriculture to sell advertisements in its publications.

The bill was read second time and was passed to engrossment by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos, Rosson.

**COMMITTEE SUBSTITUTE  
SENATE BILL 590 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 590** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos, Rosson.

The bill was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos, Gallegos, Rosson, and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
SENATE BILL 804 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 804**, Relating to preparation of certain secondary loan documents by an attorney.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTES**

Senators Galloway, Rosson, and Sibley asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 804 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 804** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Galloway, Rosson, Sibley.

The bill was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Galloway, Rosson, and Sibley asked to be recorded as voting "Nay" on the final passage of the bill.

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 1226 ON SECOND READING**

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 1226**, Relating to child-care facilities.

There was objection.

Senator West then moved to suspend the regular order of business and take up **C.S.S.B. 1226** for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Truan.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1226 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1226** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Truan.

The bill was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the final passage of the bill.

**(Senator Armbrister in Chair)**

**MOTION TO PLACE  
SENATE BILL 1448 ON SECOND READING**

Senator Wentworth asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**S.B. 1448**, Relating to certain former and retired judges serving as visiting judges.

There was objection.

Senator Wentworth then moved to suspend the regular order of business and take up **S.B. 1448** for consideration at this time.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Haywood, Henderson, Leedom, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Harris, Lucio, Luna, Madla, Moncrief, Rosson, Truan, West, Whitmire.

#### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate a group of junior and senior high school students and their teacher, Jerry Radicke, from Knippa School.

The Senate welcomed its guests.

#### **HOUSE BILL 1343 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1343**, Relating to inmate grievances and frivolous or malicious litigation filed by inmates.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

##### **Committee Amendment No. 1**

Amend **H.B. 1343** as follows:

Delete proposed Section 14.013. (Page 9, lines 18-27 of the House engrossment)

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1343 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1343** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 947 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 947**, Relating to loans secured by liens on agricultural-use or open-space land.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 947 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 947** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

**HOUSE CONCURRENT RESOLUTION 105  
ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**H.C.R. 105**, Declaring the jalapeño pepper the official State Pepper of Texas.

The resolution was read second time and was adopted by a viva voce vote.

**RECESS**

On motion of Senator Barrientos, the Senate at 12:39 p.m. recessed until 1:45 p.m. today.

**AFTER RECESS**

The Senate met at 1:45 p.m. and was called to order by the President.

**BILL SIGNED**

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read:

**S.B. 178****SENATE BILL 366 WITH HOUSE AMENDMENT**

Senator Armbrister called **S.B. 366** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.



**Committee Amendment No. 1**

Amend S.B. 366 as follows:

(1) On page 29, line 10, strike Subsection (d) in its entirety and substitute the following new Subsection (d):

(d) Before the adoption of a records retention schedule by the commission, it must be approved by ~~[a majority of the members of]~~ the local government records committee established under Section 441.161.

(2) On page 29, line 17, add a new Section 23 to read as follows:

SECTION 23. Section 441.161, Government Code, is amended to read as follows:

Sec. 441.161. LOCAL GOVERNMENT RECORDS COMMITTEE. (a) A local government records committee shall be established to:

(1) review and approve ~~[by a majority vote of its members]~~ each of the records retention schedules prepared by the director and librarian as provided by Section 441.158;

(2) review and approve ~~[by a majority vote of its members]~~ certain rules to be considered for adoption by the commission as provided by Section 441.165; and

(3) advise the commission and the director and librarian on all matters concerning the management and preservation of local government records.

(b) In reviewing and approving records retention schedules and rules under this section, each committee member shall consider the costs of implementation and other factors that may affect local governments.

(3) On page 29, line 21, after the word "clerk", insert "or a district clerk".

(4) On page 32, line 15, after the word "who", strike "resides in" and insert "represents".

(5) On page 32, line 16, after the word "who" strike "resides in" and insert "represents".

(6) On page 34, between lines 9 and 10, add a new Section, appropriately numbered, to read as follows:

SECTION \_\_\_\_ . Section 441.165, Government Code, is amended to read as follows:

Sec. 441.165. CERTAIN COMMISSION RULES. Rules and any revisions to the rules developed under Sections 203.048, 204.004, and 205.003, Local Government Code, must be approved by ~~[a majority of the members of]~~ the local government records committee established under Section 441.161.

(7) On page 34, line 16, between the words "entity" and "after", insert "with the approval of the local government's records management officer and".

(8) On page 36, line 4, strike Subsection (2) in its entirety and substitute the following new Subsection (2):

(2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county

office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

(9) On page 36, line 9, delete Subsection (b).

(10) On page 36, line 18, strike Subsection (c) in its entirety and substitute the following new Subsection (c):

(c) A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission [At the discretion of the director and librarian and on petition from a local government or elected county officer that it will be impossible to comply fully with the requirements of Subsection (a), the director and librarian may extend the deadline for the filing of records control schedules for a period on which the director and librarian and the local government or elected county officer agree. One or more additional extensions may be granted, but in no case may the first extension and any additional extensions be for a combined period of more than three years for the same local government or elective county office].

(11) On page 37, line 8, strike Subsection (h) in its entirety and substitute the following new Subsection (h):

(h) The director and librarian shall determine the form and manner of the filing of records control schedules, [and] amended schedules, the written certification of compliance described by Subsection (a)(2), or the amended written certification of compliance described by Subsection (c). The director and librarian may request that the records management officer file with the written certification of compliance or the amended written certification of compliance any amendment that establishes a records series or retention requirement other than that issued on a commission records retention schedule.

(12) On page 37, line 11, delete Section 28.

(13) On page 37, line 22, strike Subsection (a) in its entirety and substitute the following new Subsection (a):

(a) If the director and librarian or the designee of the director and librarian accepts the records control schedule, [or] amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the acceptable records control schedule [it] may be used as the basis for the destruction of records listed on it without additional notice to the director and librarian.

(14) On page 38, line 3, strike Subsection (b) in its entirety and substitute the following new Subsection (b):

(b) If the director and librarian or the designee of the director and librarian rejects the records control schedule, [or] amended schedule, written certification of compliance described by Section 203.041(a)(2), or

amended written certification of compliance described by Section 203.041(c) for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule ~~[or]~~, amended schedule, written certification of compliance, or amended written certification of compliance shall be corrected and resubmitted.

(15) On page 38, line 12, strike Subsection (c) in its entirety and substitute the following new Subsection (c):

(c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention period for the same record established on a records retention schedule issued by the commission or if the schedule is in violation of this subtitle or a rule adopted under it. The director and librarian or the designee of the director and librarian may reject a written certification of compliance described by Section 203.041(a)(2) or amended written certification of compliance described by Section 203.041(c) for filing only if the records management officer files a written certification of compliance in a form and manner that has not been approved by the director and librarian.

(16) On page 38, line 25, through page 39, line 1, strike "or written declaration" and insert "or a written certification of compliance".

(17) On page 39, line 4, strike Subsection (b) in its entirety and substitute the following new Subsection (b):

(b) After the filing of a records control schedule, ~~[or an]~~ amended schedule, written certification of compliance as provided by Section 203.041(a)(2), or amended written certification of compliance as provided by Section 203.041(c), [as provided by Section 203.041,] a record that does not appear on a records control schedule or amended schedule ~~[accepted for filing]~~ may be destroyed only with the prior approval of the director and librarian.

(18) On page 39, lines 13 and 14, strike "or written declaration as provided by Section 203.041" and insert "or a written certification of compliance as provided by Section 203.041".

(19) Renumber the subsequent sections of the bill appropriately.

The amendment was read.

On motion of Senator Armbrister and by unanimous consent, the Senate concurred in the House amendment to S.B. 366 by a viva voce vote.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 662 ON THIRD READING**

Senator Harris moved that the regular order of business be suspended and that C.S.S.B. 662 be placed on its third reading and final passage.

C.S.S.B. 662, Relating to certain agreements for the payment of subcontractors.

The motion was lost by the following vote: Yeas 15, Nays 13. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Bivins, Brown, Gallegos, Harris, Leedom, Lucio, Luna, Nelson, Rosson, Shapiro, Sims, Turner, Wentworth, West.

Nays: Cain, Ellis, Galloway, Haywood, Madla, Moncrief, Nixon, Patterson, Ratliff, Sibley, Truan, Whitmire, Zaffirini.

Absent: Barrientos, Henderson, Montford.

#### **HOUSE CONCURRENT RESOLUTION 24 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**H.C.R. 24**, Requesting the United States Congress to reconsider the requirement of stormwater discharge permits for cities having a population of fewer than 100,000.

The resolution was read second time and was adopted by a viva voce vote.

#### **NOTICE OF SESSION TO HOLD LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Harris announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 7:45 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

#### **SENATE RULE 11.19 SUSPENDED (Posting Rule)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider the following bills tomorrow:

**S.B. 839**

**S.B. 840**

#### **SENATE RULE 11.19 SUSPENDED (Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider **S.B. 1685** today.

#### **LEGISLATIVE POLICY RESOLUTION**

**H.C.R. 183** - (Harris): Instructing the State Preservation Board to hang a portrait of Robert E. Johnson in the State Capitol.

**MEMORIAL RESOLUTIONS**

**S.R. 870** - By Montford: In memory of Eugene V. Debbs "Don" Schoonover of Odessa.

**S.R. 871** - By Montford: In memory of Douglas Frye of Lubbock.

**S.R. 872** - By Montford: In memory of Milton Lee Pannell of Ransom Canyon.

**S.R. 873** - By Montford: In memory of M. R. "Frog" Koger of Big Spring.

**S.R. 874** - By Montford: In memory of William Wallace "Coach" Brown of Lubbock.

**S.R. 875** - By Montford: In memory of Mack L. Moore, Sr.

**S.R. 877** - By Truan: In memory of Mary Helen Collier Smith of Corpus Christi.

**CONGRATULATORY RESOLUTIONS**

**S.R. 862** - By Patterson: Commending the life of service of Judge Edd L. Miller of Pasadena.

**S.R. 863** - By Patterson: Congratulating Clear Lake High School Basketball Coach Bill Krueger for his accomplishments.

**S.R. 864** - By Patterson: Recognizing Dr. Jane Goodall for receiving the Moody Gardens Environmental Leadership Award.

**S.R. 865** - By Patterson: Recognizing Earl Tischofer for his work as executive officer of the North NASA Area Association of Realtors.

**S.R. 866** - By Ellis, Brown: Congratulating the Clements Senior High School Concert Band of Sugar Land on being named a recipient of the "Sudler Flag of Honor" by the John Philip Sousa Foundation.

**S.R. 867** - By Ellis: Recognizing Cassandra Lynn London on the occasion of her graduation from Texas Southern University.

**S.R. 868** - By Lucio: Designating the month of May as Older Texans Month.

**S.R. 869** - By Lucio: Recognizing Hector L. Zamora, Jr., of Harlingen for his accomplishments throughout his career as a golf coach.

**S.R. 876** - By Montford: Congratulating Dr. R. C. Douglas of Lubbock on the occasion of his retirement.

**S.R. 878** - By Barrientos, Brown, Lucio: Congratulating Ben Crenshaw on his victory at the 1995 Masters tournament.

**S.R. 879** - By Barrientos: Recognizing the Best of Texas Programs of 1995 for their efforts on behalf of Texas children and families.

**S.R. 880** - By Barrientos: Congratulating government and economics teacher Patricia Dobbs and David Crockett High School on being selected

winners of the National Association of Secondary School Principals/John Herklotz award for "Outstanding Contributions to Teaching Democracy."

**S.R. 881** - By Barrientos: Congratulating Mr. and Mrs. John Samuel Kelly on their 50th wedding anniversary.

**S.R. 882** - By Lucio: Congratulating Dr. Mario E. Ramirez of the Rio Grande Valley, who has been selected as Border Texan of the Year.

**H.C.R. 2** - (Armbrister): Recognizing the first full week in June of each year as National Garden Week.

**H.C.R. 117** - (Moncrief): Designating April 21-29, 1995, and April 21-29, 1996, as National Science and Technology Weeks in Texas.

**H.C.R. 180** - (Brown): Honoring Lieutenant General Everett Seldon Simpson for his service to his state and nation.

#### RECESS

On motion of Senator Truan, the Senate at 1:58 p.m. recessed until 7:45 a.m. tomorrow for the Local and Uncontested Bills Calendar.

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#### APPENDIX

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#### REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

April 28, 1995

FINANCE — C.S.H.B. 1792

May 1, 1995

HEALTH AND HUMAN SERVICES — C.S.S.B. 1033, C.S.S.B. 673

CRIMINAL JUSTICE — C.S.S.B. 1337

STATE AFFAIRS — C.S.S.B. 634

FINANCE — S.B. 1682, S.B. 392, S.B. 439, S.B. 1549 (Amended),  
H.J.R. 50 (Amended), H.B. 686 (Amended), S.B. 751 (Amended)

#### SIGNED BY GOVERNOR

(April 28, 1995)

**H.B. 731** (Effective immediately)

**H.B. 988** (Effective immediately)

#### SENT TO GOVERNOR

(May 1, 1995)

**S.B. 178**